

HOW *CITIZENS UNITED* DRASTICALLY CHANGED THE CAMPAIGN FINANCE
REFORM LANDSCAPE: IMPLICATIONS FOR DONOR BEHAVIOR, POLARIZATION,
AND TRANSPARENCY OF POLITICAL INFORMATION

by
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Abstract

Campaign finance laws were passed with the intent to prevent large sums of money from entering the electoral system. However, each time Congress passed campaign finance reforms, the Supreme Court struck them down the basis they violated the First Amendment. In the Supreme Court cases that followed, *Buckley V. Valeo* (510 F.2d 821 (D.C. Cir. 1975)) and *Citizens United V. Federal Election Commission* (558 U.S. 310, 130 S. Ct. 876 (2010)), the Court ruled money is a form of speech used during an election cycle, thus deserves constitutional protections. Likewise, the Supreme Court allowed interest groups to favor an electoral oriented donation strategy where they win seats by donating large sums of money to their preferred candidate. Instead of lobbying for legislation at the federal level, interest groups will elect their preferred candidate into office by donating large sums of money to win the seat.

Citizens United permitted an interest group to run independent expenditure ads funded by the interest group's general treasury fund that explicitly advocated for their preferred candidate. By the same token, to win the seat interest groups run independent advertisements on behalf of their candidate of choice. These independent expenditure advertisements, as a result of *Citizens United*, appear on tv up and till Election Day. Furthermore, these independent expenditure advertisements polarize the electorate by reinforcing the voters already held beliefs about a candidate and policy issue, thus moving the electorate to opposite ends of the political spectrum. Lastly, *Citizens United* allowed organizations called, "501 c (4)," social welfare organizations to donate to candidates without disclosing how and where they are receiving their funds. These 501 c (4)'s that donate, but hide to whom and where they are giving their money to are called, "dark money groups." Moreover, these "501 c (4)'s," can give money to interest groups who will run issue advertisements on behalf of the dark money group. When dark money groups spend money

on issue advertisements without disclosing their donors, this causes a decrease of transparent political information during an election cycle.

Thesis Advisors: Collin Paschall and Kathryn Wagner Hill

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Introduction

These three thesis chapters explore three different aspects of Campaign Finance Reform in the United States. One, how interest groups use two strategies to either elect their preferred candidate into office or pass legislation at the federal level; an electoral oriented or access-oriented donation strategy. Two, how lax campaign finance laws have allowed interest groups to increase spending on issue advertisements causing a polarized electorate. Three, curtailed campaign finance laws allowed dark money groups to reduce transparency of political information causing negative and deceptive political advertisements to increase.

Campaign finance reform has evolved and changed from 1976 with the passage of the Federal Election Campaign Act (Pub.L. 93-443), to the Bipartisan Campaign Reform Act of 2002 (Pub.L. 107 – 155, 116 Stat. 81, enacted March 27, 2002, H.R. 2356) to 2010 with the Supreme Court case, *Citizens United V. Federal Election Commission* (558 U.S. 310, 130 S. Ct. 876 (2010)). The electoral process in the United States ideally is supposed to be open and accessible to those who are eligible to vote, regardless of income. Moreover, campaign finance laws ensure citizens of the United States are able to vote, receive unbiased information, and have a voice in the political process regardless if they can donate or not.

Unfortunately, this has not been the case because the Supreme Court has struck down important provisions of numerous campaign finance laws aimed at reducing the power of the wealthy in the electoral process. The Supreme Court struck down these provisions on the basis they violate an individual's right to express their political opinion. By striking down important provisions the Supreme Court prioritized a wealthy corporation's right to participate in the

political process over a non – affluent voter’s constitutional right to participate in the political process.

This essay utilizes a variety of case studies to demonstrate how curtailed campaign finance laws have favored wealthy corporations above the interests of the electorate in the political process. Moreover, curtailed campaign finance laws contribute to polarization within the electorate and decrease transparency of political information. Furthermore, this essay uses contribution reports, compiled by the Federal Election Commission and Open Secrets Center for Responsive Politics from 2012 Presidential Election, 2016 Presidential Election, 2008 Presidential Election, and 2018 Midterm Elections. To conclude, this analysis compares and contrasts contribution reports from 2012, 2008, 2016, and 2018, and found as campaign spending increases, interest groups favor an electoral oriented donation strategy, polarization within the electorate increases, and transparency of political information decreases.

The right to vote in the United States is codified in the Fifteenth Amendment to the United States Constitution. The Fifteenth Amendment, “prohibits the federal government and each state from denying a citizen the right to vote based on that citizens race, color or previous conditions of servitude.”¹ Although this protected the right to vote for African Americans who were barred from voting in the United States, states still passed laws restricting access to the electoral process for African Americans and other minorities. These voting restrictions were in the form of literacy tests, a poll tax (a tax charged for voting in local elections), harassment, intimidation, and physical harassment. As a result, voter turnout and participation rates amongst whites increased, but decreased amongst African Americans and other minorities. In response to

¹ The Constitution of the United States of America, The Declaration of Independence, “Fifteenth Amendment: Passed by Congress February 26, 1869, ratified February 3, 1870, Castle Books, New York, (published 2014), pg. 57.

these voting restrictions, the President at the time, Landon B Johnson passed the Voting Rights Act of 1965 (Pub. L. 89-110, 79 Stat. 437). The Voting Rights Act of 1965 prohibited literacy tests, required a Federal Examiner to register voters, and jurisdictions with a high minority population asking to change their voting practices or procedures, were required to obtain, “pre - clearance,” from the District Court for the District of Colombia.²

This “pre - clearance provision,” was challenged in the Supreme Court Case *Shelby County V. Holder* (570 U.S. 529 (2013)). Shelby County, Alabama wanted to change their voting procedures to favor the Republican voting base.³ The Alabama Black Caucus sued, stating Alabama violated the pre – clearance provision of the Voting Rights Act.⁴ The Supreme Court ruled, the pre – clearance provision of the Voting Rights Act imposed burdens that are no longer, “responsive,” to the current conditions in voting districts in question.⁵ The Court further ruled, Section 5 of the Voting Rights Act is unconstitutional because the, “blatant discrimination against certain voters that Section 5 was intended to prohibit is no longer evident.”⁶ Unfortunately, voter discrimination is still evident in the political process, but has taken a new form.

Combined with voter ID laws, long lines at the polls, and purging voter rolls, wealth inequalities have become the current form of voter discrimination. Meaning, candidates running for office have an incentive to solicit money from voters who can donate the most money to their campaign. In exchange, the candidate running for office will caters to the interests of the voters who donated the most. By the same token, these voters tend to be wealthy and white, which does

² Voting Rights Act of 1965 Public Law 89 – 110, 89th Congress of the United States, 1st Session, August 6, 1965, found on Our Documents.org, <https://www.ourdocuments.gov/doc.php?flash=false&doc=100#>

³ *Shelby County v. Holder*. (n.d.). Oyez. Retrieved July 6, 2021, from <https://www.oyez.org/cases/2012/12-96>.

⁴ *Shelby County v. Holder*. (n.d.). Oyez. Retrieved July 6, 2021, from <https://www.oyez.org/cases/2012/12-96>.

⁵ *Shelby County v. Holder*. (n.d.). Oyez. Retrieved July 6, 2021, from <https://www.oyez.org/cases/2012/12-96>.

⁶ *Shelby County v. Holder*. (n.d.). Oyez. Retrieved July 6, 2021, from <https://www.oyez.org/cases/2012/12-96>.

not mimic the majority of the electorate. This relationship has been primarily between the individual and the candidate. However, recently this relationship has included a corporation, interest group and labor union. This recent development is the result of the slow curtailment of campaign finance laws allowing a wealthy corporation, interest group or labor union to influence the electoral process by donating unlimited sums of money to elect their preferred candidate into office.

The slow curtailment of campaign finance laws starting with *Buckley V. Valeo*'s roll back of spending limits and ending with *Citizens United V. Federal Election Commission* tilted the scale to favor the wealthy individual and corporation, over the non – affluent voter. Furthermore, large contributions by wealthy individuals and corporations to elected officials distort the decision making by the elected official to favor the policy interest of the large donor, rather than the constituents the elected officials serve. Consequently, the concerns of non – affluent voters are minimized and weakened in favor of corporate interests and these corporate interests do not represent the majority of the electorate in the United States.

To add to the complexity, the Supreme Court struck down campaign finance provisions such as, spending limits, contribution limits, and fundraising limits on the basis these limits violate the First Amendment (Freedom of Speech). The Supreme Court ruled these spending, fundraising and contribution limits restricted the free political speech of the donor and reduces the amount of political information accessible to voters. The Supreme Court argued the First Amendment is essential in a democracy, thus is equally important during an election cycle. To allow more speech, the Supreme Court struck down these limits to allow the electorate to have more information whether it's good or bad, negative or positive. Ironically, these restrictions were meant to preserve and protect the individual's right to vote, regardless of how much money

they can or cannot donate. Hence, ensuring voters have an equal say in the political process. These campaign finance laws restricted the amount of money passed from a political action committee and a super political action committee for advertisements funded by independent expenditures that advocated for or against a candidate, thus ensuring voters are able to hear political information from multiple sides to make an informed decision at the ballot box.

These three thesis chapters first provide the reader with an overview of different campaign finance laws enacted by Congress then rolled back by the Supreme Court on the basis they violated the First Amendment. Next, these three chapters provide the reader with an in-depth analysis of the different strategies interest groups use to allocate campaign contributions and why this strategy shifted after the *Citizens United* decision. The reader will gain a comprehensive understanding of how much money as a result of curtailed campaign finance laws poured into interest groups issue advertisements and its effects on the electorate. Finally, the reader will gain a comprehensive understanding of what dark money is, how its funneled to a candidate running for office, how interest groups (PACs and Super PACs) play a pivotal role, and the impact dark money has on advertisements used to persuade voters during an election cycle. By the same token, it is the hope these three chapters shine a light on the effect money has in the electoral system. Money gives the candidate a chance to communicate their message to the electorate, but too much of it has damaging effects on voters who cannot donate in unlimited sums but still need their interests represented. These thesis chapters demonstrate how the non – affluent voter is excluded from the political process, to favor the wealthy special interests donating in record sums to the candidate running for office.

The first chapter explores how the proliferation of interest groups in the form of political action committees impact the allocation of campaign contributions to elect a candidate during an

election cycle. This chapter examines two different strategies interest groups use to elect their preferred candidate into office: an electoral donation strategy and an access – oriented donation strategy. Previous literature suggests, interest groups use two strategies to decide how to donate money. They can donate simply to gain access to the legislative process, access-oriented donation strategy, or they can donate to win seats by pushing a candidate of their choice, electoral oriented donation strategy. Interest groups who are well established, have money either by donations or membership dues, occupy ideologically extreme ends of the political spectrum and occupy highly politicalized industries (gun rights, abortion, gay rights) want to win seats during an election. These interest groups maximize their donations by giving to candidates that align with them ideologically. These interest groups have access to the legislature through their relationships with lawmakers, so their goal is to win seats by donating large sums of money to produce issue advertisements on behalf of their preferred candidates. Hence, an electoral donation strategy becomes more valuable for interest groups who have money, influence, and identify as partisan.

Through examining the electoral donation strategy of the National Rifle Association during the 2012 presidential election and 2016 presidential election this chapter concludes interest groups who use an electoral donation strategy increase their chances of electing their preferred candidate into office. In order to influence the outcome of an election, interest groups must back a candidate that aligns ideologically with their policy objectives *and* use their general treasury fund to run advertisements to elect their preferred candidate.

The second thesis dives deeper into campaign finance, specifically how and why campaign spending affects media advertisements and polarization during an election cycle. The second chapter explores the question, “How does the proliferation of interest groups in the form

of political action committees impact campaign spending on media advertisements during an election cycle?” Likewise, the second chapter explores the evolution of campaign finance laws starting from the Federal Election Campaign Act of 1974 (FECA), to the Supreme Court case challenging FECA, *Buckley V. Valeo* (510 F.2d 821 (D.C. Cir. 1975), to the Bipartisan Campaign Reform Act of 2002 (Pub.L. 107 – 155, 116 Stat. 81, enacted March 27, 2002, H.R. 2356), to the Supreme Court case *Citizens United V. Federal Election Commission* (558 U.S. 310, 130 S Ct. 876 (2010), which struck down important campaign finance provisions restricting the flow of money into the electoral system.

On that note, Congress passed the Federal Election Campaign Act of 1974 in an attempt to restrict the amount of campaign money from corporate interests after Richard Nixon’s campaign in 1968. Congress passed the Federal Election Campaign Act of 1974, which established expenditure limits for candidates, contribution limits for individuals and unions. FECA established the Federal Election Commission, created a public funding system for presidential candidates, set limits on expenditures (\$1,000 contribution limit to candidate committee per election) and allowed corporations and unions to establish political action committees (PACs) to solicit donations. FECA set a \$5,000 limit on individual’s contributions to a PAC, limited PACs to a \$5,000 contribution to a corporate election committee, and improved disclosure requirements for candidates and PACs.⁷ FECA remained law until 1976.

These provisions did not sit well with candidates who claimed these restrictions violated their First Amendment right to voice their political opinions (political speech). The first Supreme Court case to challenge FECA was *Buckley V. Valeo* (510 F.2d 821 (D.C. Cir. 1975). The

⁷ Raymond J. La Raja, *Small Change: Money, Political Parties and Campaign Finance Reform*: Chapter 4: Explaining Campaign Finance Reform and the BCRA (Ann Arbor Michigan, The University of Michigan Press, 2008), pg. 78 – 79.

Supreme Court in *Buckley V Valeo*, upheld parts of FECA, but declared other parts unconstitutional. The Supreme Court agreed with the \$1,000 limit on individual contributions to a candidate, and the \$5,000 limit a PAC can contribute to a single candidate. The Court ruled contribution limits, “served a vital public interest in protecting against corruption.”⁸ The Court further ruled independent expenditure limits (expenditures on communication that expressly advocates for one candidate over another by saying the magic words of ‘elect and defeat,’) were unconstitutional, limitations on candidates using their personal funds to finance their campaign were ruled unconstitutional, and limits on total campaign expenditures were ruled unconstitutional. The Court ruled these provisions unconstitutional because they violated a candidate’s freedom of speech (First Amendment).⁹ This decision allowed more money to enter the electoral system through political action committees (PACs). Political action committees can solicit donations from individuals and then give those funds to the candidate provided the exchange is not coordinated with the candidates. Moreover, PACs donate to candidates in the form of soft money. Soft money skirts Federal Election Commission regulations because it’s donated for, “party building activities,” such as, get out the vote drives, issue advertisements, and voter registration drives. This decision reshaped campaign finance laws to favor wealthy self – funded candidates, and permitted political action committees to enter the electoral system.

In an attempt to regulate the spending limits and contribution limits, Congress passed the Bipartisan Campaign Reform Act of 2002 (Pub.L. 107 – 155, 116 Stat. 81, enacted March 27, 2002, H.R. 2356) (BCRA). The BCRA banned the use of soft money, but increased the contribution limit for individuals and relaxed restrictions on aggregate spending. The BCRA

⁸ Ibid, pg. 77.

⁹ FEC, Summary of *Buckley V Valeo*, 387 F. Supp. 135, D.D.C. 1975, <https://www.fec.gov/legal-resources/court-cases/buckley-v-valeo/>

allowed wealthy individuals to donate multiple times to the same candidate during an election cycle. In turn, candidates solicited the same wealthy donors; thus, allowing candidates to cater to special interests. The BCRA only diverted the money elsewhere (to wealth donors) as opposed to restricting the flow of it into the electoral system.

These restrictions were further relaxed in 2010 when the Supreme Court heard the case *Citizens United V. Federal Election Commission* (558 U.S. 310, 130 S Ct. 876 (2010)). *Citizens United V. Federal Election Commission* ruled corporations, unions and interest groups could use their general treasury and donate in unlimited sums to directly affect the outcome of an election. Corporations, unions and interest groups can directly affect the outcome of an election by running issue advertisements on tv. The Court argued, donations are a form of expressing a political opinion (free speech), and restricting donations impede the ability for a corporation to voice their political opinion. Furthermore, when interest groups run ads on tv they are giving the electorate a diverse set of opinions and viewpoints to draw from prior to casting their ballot. Furthermore, corporations, unions, and interest groups deserve the same First Amendment protections as individuals receive under the Constitution. Hence, money is a form of free speech should be protected as such.

Second, *Citizens United* ruled, corporations, unions, and interest groups did not have to abide by election law governing the timing of their advertisements and these ads from interest groups and corporations can explicitly advocate for a candidate. Prior to *Citizens United*, interest groups could not run ads on tv thirty days prior to a primary election, and sixty days prior to a general election because it was considered electioneering. Moreover, interest groups could not run ads that contained, ‘elect or defeat.’ *Citizens United* ruled interest groups can run ads that contained the words, ‘elect and defeat,’ up and till Election Day influencing voters because

money is a form of free speech. Likewise, these ads appearing on tv after *Citizens United* could were funded by the interest group's general treasury fund. Moreover, these limits on the timing of ads restrict the free speech of corporations, unions and interest groups. Furthermore, voters need to make an informed decision based on information (negative and positive) prior to casting their ballot. This drastically changed the way candidates, donors, and voters interacted with one another.

Furthermore, chapter two of this thesis examines, as a result of *Citizens United*, interest groups spent unlimited sums of money to elect their preferred candidate into office by blitzing the airwaves with issue ads. These issue ads repeated multiple times prior to and on Election Day. Chapter two examines two election cycles; 2008 presidential election occurring prior to *Citizens United* and the 2016 presidential election occurring after *Citizens United*. By comparing and contrasting these two election cycles, chapter two concludes polarization occurred within the electorate in 2008, not with the issue ads produced by Obama or an interest group affiliated with Obama. This was due to federal election laws prohibiting issue ads from appearing on tv thirty days prior to a primary and sixty days prior to a general election. In 2016, polarization also occurred within the electorate, but for a different reason. Polarization was due to the amount of money interest groups poured into producing issue advertisements that repeated on tv multiple times prior to and on Election Day. These issue advertisements skewed negative and provided voters limited information about both candidates. From these ads, voters are asked to make a decision based on limited information from the advertisement. This limited information has the potential to reinforce the voter's already held beliefs about the candidates, pushing voters to polar opposites of the political spectrum.

Issue advertisements provide voters with limited information not only about the issues discussed, but who funded the ad and who sponsored the ad. The third chapter of the thesis explores the question, “How does the proliferation of dark money groups impact transparency of political information during an election cycle?” Independent expenditure advertisements are sponsored by political action committees or super political action committees who air ads to explicitly advocate and elect their preferred candidate. However, if donors do not want their name and how much they donated disclosed to the Federal Election Commission, the donor can give secretly to the candidate through a social welfare organization called a “501 c (4).” This thesis furthers the hypothesis that curtailed campaign finance laws permitted dark money groups to reduce transparency of political information, causing negative and deceptive political advertisements to increase during an election cycle.

Likewise, these social welfare organizations, “501 c (4)’s,” are allowed to make political contributions, so long as their political contributions do not exceed 49% of the organizations expenditures. These social welfare organizations do not have to disclose who they are donating to or how much they give to a political candidate. This type of giving where the social welfare organization does not have to disclose who they are donating to or how much is exchanging hands is called dark money. The social welfare organizations who conceal their donors and who they are funding are called dark money groups. Money is funneled by the dark money group to either a PAC and Super PAC who will then produce ads on behalf of the dark money group’s candidate. As a result, when the voter watches the ad on tv they will not know who funded the ad or who sponsored it.

This thesis chapter examines two election cycles; the 2012 Presidential Election and the 2018 Midterm Election in Arizona. During the 2012 Presidential Election conservative dark

money groups outspent liberal dark money groups to demonstrate how the Affordable Health Care Act (ACA) would increase taxes as a result of the individual mandate.¹⁰ The dark money group operating during the 2012 Presidential Election was called, “Americans for Prosperity.” Americans for Prosperity ran issue ads misinforming voters, leading them to think the ACA would do more harm than good. Although Obama won the 2012 Presidential Election, dark money groups had just begun ramping up their operations for the 2018 Midterm Elections.

The 2018 Midterm Elections saw the highest amount of dark money spending after *Citizens United*, with liberal dark money groups outspending conservative dark money groups. The second case study examines the Democratic dark money group, Majority Forward operating during the 2018 Midterm Election in Arizona. Majority Forward poured money into the Midterm Election in Arizona to unseat Republican Senator Martha McSally, with the goal of electing Democratic Senator Kyrsten Sinema. Majority Forward blitzed the airwaves with health care ads slamming Martha McSally’s push to end the ACA, and hike insurance rates for adults over the age of 50. Majority Forward successfully elected Kyrsten Sinema by pouring money into issue ads supporting her. The issue ads Majority Forward produced allowed them to conceal their donors, thus removing the link between the donor and the candidate. Inadvertently, this also decreases accountability in the electoral process, by favoring the wealthy (secret) donors as opposed to the electorate the candidate represents and serves. Ironically, the very provisions the Supreme Court ruled unconstitutional in *Buckley V. Valeo*, Bipartisan Reform Act of 2002, and *Citizens United V. Federal Election Commission* gave affluent voters more influence in the political process by steadily increasing the amount of money entering the electoral sphere. By steadily increasing the amount of money in the electoral system, the Supreme Court tilted the

¹⁰ Joanne Kenen, “Congress and the Affordable Care Act,” Health Policy Brief, Health Affairs, February 25, 2011, <https://www.healthaffairs.org/doi/10.1377/hpb20110225.325684/full/>

scale to favor the wealthy, instead of the electorate the candidate (and eventually the elected official) represents. The Supreme Court tilted the scale to favor the free speech rights of corporations over individuals in *Citizens United V. Federal Election Commission*. By favoring corporations, the Supreme Court changed the way interest groups, candidates, donors and the electorate interact with one another. The first chapter of this thesis explores the dynamic between interest groups, candidates, and the electorate post – *Citizens United* and the strategies interest groups use to secure seats during an election cycle.

Staring Down the Barrel of Interest Group Donation Behavior, Campaign Contributions, and
Campaign Finance Reform

Abstract

Campaign finance laws were passed with the original intent to prevent large sums of money from entering the political process; therefore, potentially swaying candidates to vote in favor of those who donated the most. However, each time campaign finance laws passed in Congress; the Supreme Court found reasons to strike them down. The most notable being the 2010 Supreme Court case *Citizens United V. Federal Election Commission* (558 U.S. 310, 130 S Ct. 876 (2010)). In *Citizens United*, the Court ruled money is a form of political speech and corporations/ labor unions can use money from their treasury fund to elect a candidate of their choice. This essay explores the question, “How does the proliferation of interest groups (in the form of Political Action Committees) impact the allocation of campaign contributions to elect a candidate during an election cycle?” This essay will examine a number of theoretical frameworks that explain how interest groups allocate campaign contributions either to elect a candidate (electoral oriented) or to push policy in Congress (access oriented). These theoretical frameworks suggest, interest groups who use an electoral donation strategy, as opposed to an access-oriented donation strategy, increase their chances of electing their preferred candidate into office. To further prove this hypothesis, this paper uses a comparative case study of the National Rifle Association’s contributions in the 2012 presidential election and 2016 Presidential Election compared with the NRA’s spending on issue advertisement in both election cycles. This will advance the claim interest groups who use an electoral donation strategy, as opposed to an access-oriented donation strategy increase their chances of electing their preferred candidate into office.

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Introduction:

In 2010, the Supreme Court heard the case *Citizens United V. Federal Election Commission* (558 U.S. 310, 130 S Ct. 876 (2010)), which determined corporations have a right to free speech in the American electoral process and can contribute money from their general treasury to fund a candidate. This has drastically changed the way candidates, interest groups and the American public gain information about policy issues and the candidates prior to an election. This suggests, “How does the proliferation of interest groups (in the form of Political Action Committees) impact the allocation of campaign contributions to elect a candidate during an election cycle?”

To answer this question, there will be a brief explanation of the Supreme Court’s decision in *Citizens United* and its implications on campaign finance laws. Second, this essay will examine a number of theoretical frameworks that explain how interest groups allocate campaign contributions in an election cycle. The Supreme Court Decision *Citizens United* changed how interest groups decide how much and to whom they donate during an election cycle. *Citizens United* allowed interest groups to use money from their treasury to fund television ads explicitly to defeat a candidate. Likewise, interest groups not only donated for the sake of obtaining access to the policy making process, but donated to win electoral seats. For interest groups who are highly partisan and occupy space in a policy field that is highly partisan, donating to win seats becomes increasingly more valuable. This will further the argument that interest groups that use an electoral donation strategy, as opposed to an access-oriented donation strategy, increase their chances of electing their preferred candidate into office. This essay uses a comparative case study of the National Rifle Association’s (NRA) political spending in the 2012 Presidential Election and in the 2016 Presidential Election. Likewise, this case study will use the NRA’s

independent expenditure reports to demonstrate Mitt Romney lost the 2012 election because he was not ideologically aligned with the NRA's policy objectives. Thus, this made it harder for the NRA to deploy an electoral strategy and back their candidate of choice. Whereas, the 2016 Presidential election, Donald Trump was ideologically aligned with the NRA, so the NRA could use an electoral donation strategy to elect their preferred candidate.

The backdrop of interest group proliferation: *Citizens United V. Federal Election*

Commission:

The Supreme Court case that drastically changed the landscape of campaign finance reform was *Citizens United V. Federal Election Commission (FEC)*. Citizens United, a nonprofit conservative organization, produced and released a film called, *Hillary: The Movie*. *The Movie* was released before the 2008 primary election. *Hillary: The Movie* was a negative portrayal critiquing former Senator Hillary Clinton.¹¹ Citizens United released the film to theaters, but then decided to increase the distribution of the film. Citizens United paid Comcast \$1 million to broadcast the film via on demand TV services.¹²

Furthermore, Citizens United made the film free via on demand services, by paying Comcast directly, "from its political action committee funded from donations from individuals."¹³ The film's release date to free on demand services was scheduled for thirty days prior to the primary election. As a result, the FEC banned the release of the film.

The FEC banned the release of the film because Citizens United ran afoul of the Bipartisan Campaign Reform Act of 2002's electioneering clause, which "prohibits corporations

¹¹ Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 650 – 651.

¹² Richard L. Hanson, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections* Chapter 5: Censorship, (New Haven and London, Yale University Press, 2016), Chapter 5, pg. 107.

¹³ Ibid, pg. 107.

from using their general treasury funds for “electioneering communications.”¹⁴ Electioneering communication is, “any broadcast, cable, or satellite communication that refers to a clearly identified federal candidate made within 60 days of a general election or 30 days of a primary election,”¹⁵

Because issue ads are funded by soft money, they bypass FEC regulations. Soft money from a political party is money raised by political parties for, “party building,” activities such as, get out the vote drives, voter registration, and issue advertisements.¹⁶ Soft money is not directly donated to a candidate. Instead, soft money is donated to a party. Hard money is money given directly to a candidate running for office by individuals. Under the BCRA, hard money (direct monetary contributions) limits were increased from \$1,000 per individual/ per candidate/ per election cycle to \$2,000 per individual/ per candidate/ per election cycle.¹⁷

Citizens United sued the FEC over the blockage of the film. Citizens United stated it is their First Amendment right to decide which candidate they will oppose. The Supreme Court held that, restricting the amount of money a corporation/ union can donate, “effectively restricts the number of issues discussed, the quantity of expression, and the size of the audience reached.”¹⁸ The Court shared that speech is, “essential,” in a democracy, by holding elected

¹⁴ L., Paige Whitaker, Erika K. Lunder, Jack Maskell, and Michael Seitzinger, ““Legislative Options After Citizens United V. FEC: Constitutional and Legal Issues,” Congressional Research Service Issue Brief, March 2010, <https://fas.org/sgp/crs/misc/R41096.pdf>, Summary Page, <https://fas.org/sgp/crs/misc/R41096.pdf>

¹⁵ L., Paige Whitaker, Erika K. Lunder, Jack Maskell, and Michael Seitzinger, ““Legislative Options After Citizens United V. FEC: Constitutional and Legal Issues,” Congressional Research Service Issue Brief, March 2010, <https://fas.org/sgp/crs/misc/R41096.pdf>, Summary Page, <https://fas.org/sgp/crs/misc/R41096.pdf>

¹⁶ Raymond J. La Raja, *Small Change: Money, Political Parties and Campaign Finance Reform*: Chapter 4: Explaining Campaign Finance Reform and the BCRA (Ann Arbor Michigan, The University of Michigan Press, 2008), pg. 107

¹⁷ Raymond J. La Raja, *Small Change: Money, Political Parties and Campaign Finance Reform*: Chapter 4: Explaining Campaign Finance Reform and the BCRA (Ann Arbor Michigan, The University of Michigan Press, 2008), pg. 107

¹⁸ Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 652

officials accountable and should not be prohibited.¹⁹ By the same token, the First Amendment (freedom of speech) is by far the most important during an election cycle.²⁰

The Court argued limiting a corporations/ union right to use money from their treasury to directly defeat a candidate violates freedom of political speech. This means that corporations/ labor unions have the same freedom of speech rights as individuals do under the United States Constitution.

The Theoretical Concepts Behind How Interest Groups Donate to Campaigns:

This decision allowed the proliferation of interest groups to form to defeat a candidate, and also changed the way interest groups allocate campaign contributions during an election cycle. Likewise, there are different theoretical frameworks explaining how interest groups allocate campaign contributions.

According to Baron, there are two types of voters in the electoral process: the informed voter and the uninformed voter. Informed voters are assumed to be educated on the policy positions of the candidate. However, the uninformed voter does not know the policy position of the candidate so his or her vote is influenced by campaign expenditures.²¹ The equilibrium is where all voters vote as if they were informed and candidates choose positions at the median of the voters. Candidates bases their policy positions on the median of the voters. This theory is called the Median Voter Theorem.²²

However, many voters are uninformed about policy positions of the candidate so campaign expenditures are a tool to inform uninformed voters.²³ The presence of uninformed

¹⁹ Ibid, pg. 652 – 653

²⁰ Ibid, pg. 653

²¹ David P. Baron, “Electoral Competition with Informed and Uniformed Voters,” *The American Political Science Review*, Volume 88, Number 1, (1994), <https://www.jstor.org/stable/pdf/2944880.pdf?refreqid=excelsior%3A0eb141795d3aac9985082655df806ec0> pg. 33.

²² Ibid, pg. 34.

²³ Ibid, pg. 34 – 35

voters cause candidates to cater to interest groups, thus attracting donations. This theory assumes if there are few uninformed voters to influence through campaign expenditures, then candidates will compete for the share of uninformed voters by moving towards the median of voters.²⁴

However, there are more uninformed voters than informed voters so campaign contributions become a necessary tool to inform voters about the policy positions of the candidates.²⁵

According to Apollonio and La Raja there are two main reasons interest groups donate to candidates running for office.²⁶ The first reason is to build working relationships with lawmakers as a means to pass the interest groups preferred legislation (access oriented). The second reason is simply to win electoral votes, by supporting a candidate who holds the same ideological viewpoint as the interest group (electoral oriented).²⁷

After *Citizens United*, soft money changed the way interest groups and candidates interact with one another. Apollonio and La Raja concluded that, interest groups who have a membership base and who are experienced in their field decrease soft money donations and rely on other methods of electoral support.²⁸ On the other hand, non-membership interest groups with limited resources have an incentive to donate soft money directly from their treasury.²⁹

After *Citizens United*, candidates realized they could rely on the same wealthy donors' multiple times. According to Sebold and Dowdle, candidates will maximize their electoral

²⁴ Ibid, pg. 44 – 45

²⁵ Ibid, pg. 45

²⁶ Raymond La Raja and D. E Apollonio, "Who Gave Soft Money? The Effect of Interest Group Resources on [US] Political Contributions," *Journal of Politics*, Volume 66, Number 4, (November 1, 2004), <https://doi.org/10.1111/j.0022-3816.2004.00293.x>, pg. 1134 – 1135.

²⁷ Raymond La Raja and D. E Apollonio, "Who Gave Soft Money? The Effect of Interest Group Resources on [US] Political Contributions," *Journal of Politics*, Volume 66, Number 4, (November 1, 2004), <https://doi.org/10.1111/j.0022-3816.2004.00293.x>, pg. 1135.

²⁸ Ibid, pg. 1138 - 1140

²⁹ Ibid, pg. 1144 – 1146

prospects and fundraising success by creating a “donor pond.”³⁰ A donor pond allows candidates to solicit the same wealthy donors’ multiple times during an election cycle.³¹ Republican donors during the 2016 election relied on small contributions multiple times to push Donald Trump.³² Hillary Clinton relied on large contributions throughout her campaign, but these contributions were only given once during the election cycle.³³

Even if they claim to be nonpartisan, interest groups tend to donate more money to one party over another. According to Brunell, interest groups allocate their money based on how “electoral useful,” the donations will be to the candidate.³⁴ Strategic donations help the interest group gain access, but do not represent their ideological preference.³⁵ On the other hand, a sincere donation is given to maximize the electoral benefit to the interest group’s preferred candidate.³⁶ Partisanship is higher amongst interest groups whose goal is to maximize the electoral usefulness of their donation, thus an electoral donation strategy becomes more valuable.³⁷ Similarly, McKay found the more ideological extreme an interest group is, the more

³⁰ Karen Sebold and Andrew J. Dowdle, “Can “Letting in Sunlight” Lead to Accidental Sunburn? The Unintended Consequences of Campaign Finance Reform on the Financing of U.S. Presidential Candidates,” *Election Law Journal*, Volume 17, Number 3 (2018), <https://www-liebertpub-com.proxy1.library.jhu.edu/doi/pdf/10.1089/elj.2018.0517> pg. 212

³¹ Karen Sebold and Andrew J. Dowdle, “Can “Letting in Sunlight” Lead to Accidental Sunburn? The Unintended Consequences of Campaign Finance Reform on the Financing of U.S. Presidential Candidates,” *Election Law Journal*, Volume 17, Number 3 (2018), <https://www-liebertpub-com.proxy1.library.jhu.edu/doi/pdf/10.1089/elj.2018.0517>, pg. 212.

³² Ibid, pg. 217 – 218.

³³ Ibid, pg. 218.

³⁴ Thomas L. Brunell, "The Relationship between Political Parties and Interest Groups: Explaining Patterns of PAC Contributions to Candidates for Congress," *Political Research Quarterly*, Volume 58, Number 4 (December 2005), <https://www.jstor.org/stable/3595653> , pg. 681.

³⁵ Ibid, pg. 684.

³⁶ Ibid, pg. 684.

³⁷ Ibid, pg. 687.

likely they will favor an electoral oriented donation strategy to win seats.³⁸ Republican interest groups tend to donate to one party to maximize their electoral win.³⁹

Furthermore, when interest groups rely on their members to remain civically engaged, they are more likely to generate organized representation in government. According to Grossman and La Raja, politically extreme groups tend to hold views outside mainstream political opinions, so they are better positioned to influence lawmakers.⁴⁰ Republican groups are more centralized and more ideologically consistent.⁴¹ Likewise, strong partisans tend to move to the ideological extremes of their parties, which encourages them to make campaign donations to their preferred candidate.⁴²

Interest group donation behavior varies based on how much political attention is given to a particular industry. According to Barber and Eatough, interest groups in highly politicalized industries will exhibit electoral donation behaviors.⁴³ The interest groups in these industries tend to garner the most media attention and the most controversy from voters.⁴⁴ These industries include interest group lobbying for gun rights, abortion, gay rights, etc.⁴⁵ Interest groups in highly politicalized industries will want to maximize their donation and give to candidates who align ideologically with their issue.⁴⁶ Campaign contributions in highly politicalized industries

³⁸ Amy McKay, "The Effects of Interest Groups' Ideology on Their PAC and Lobbying Expenditures," *Business & Politics*, Volume 12, Number 2 (June 2010), <http://content.ebscohost.com/ContentServer.asp?T=P&P=AN&K=53529243&S=R&D=bsu&EbscoContent=dGJyM Mv17ESep7Q4zOX0OLCmsEiep7BSsKq4S7WWxWXS&ContentCustomer=dGJyMPGps02zqK5KuePfgeyx44Dt6 f1A>, pg. 2 – 3.

³⁹ Ibid, pg. 10 – 11

⁴⁰ Ibid, pg. 53.

⁴¹ Raymond La Raja, *Small Change: Political Parties and Campaign Finance Reform Chapter 4: Explaining Campaign Finance Reform and the BCRA*, (Michigan, The University, 2008), pg. 98 – 99.

⁴² Ibid, pg. 106 – 107.

⁴³ Michael Barber and Mandi Eatough, "Industry Politicization Interest Group Campaign Contribution Strategies," *The Journal of Politics*, Volume 82, Number 3 (2020), <https://www-journals-uchicago-edu.proxy1.library.jhu.edu/doi/10.1086/707493>, pg. 1011 – 1012.

⁴⁴ Ibid, pg. 1015 – 1016

⁴⁵ Ibid, pg. 1013

⁴⁶ Ibid, pg. 1016.

stress putting someone in office over access because these interest groups have access to the legislature. In other words, highly politicalized interest groups want to win seats.⁴⁷

Interest groups can either diverge from the issue debate of a candidate or match the issue debate. According to Franz, Fowler, and Ridout, interest groups can act as if they were the candidate by matching the candidate's ideological viewpoint. This type of behavior is called acting like a 'loyal foot soldier.' Alternatively, interest groups can inject their favored issue into the policy debate. This behavior is called 'acting like a loose cannon.'⁴⁸ Multi issue non membership groups tend to focus on issues similar to their preferred candidate.⁴⁹ However, single issue interest groups tend to inject their own issues into the debate.⁵⁰ In the 2016 election, Republican single-issue groups remained loyal foot soldiers to Donald Trump.⁵¹

One of the interest groups who was able to remain a loyal foot soldier to Donald Trump was the National Rifle Association. The NRA was able to not only match the issue debate of Donald Trump, but developed a social identity around gun control and gun ownership. The National Rifle Association developed a distinct strategy to capture the political attention of gun owners. According to Lacombe, the NRA created a positive social identity around gun ownership, and created a negative social identity around gun control.⁵² The NRA portrayed gun owners using words such as, law abiding, peaceful, and freedom loving. These descriptions

⁴⁷ Ibid, pg. 1017

⁴⁸ Michael M Franz, Erika Franklin Fowler, and Travis N. Ridout. "Loose Cannons or Loyal Foot Soldiers? Toward a More Complex Theory of [US] Interest Group Advertising Strategies," *American Journal of Political Science*, Volume 60, Number 3 (July 2020), <http://content.ebscohost.com/ContentServer.asp?T=P&P=AN&K=116857544&S=R&D=bsu&EbscoContent=dGJyMNHr7ESep7M4zOX0OLCmsEiep7FSsqu4TbWWxWXS&ContentCustomer=dGJyMPGps02zqK5KucPfgeyx44Dt6fIA> pg. 740 -741.

⁴⁹ Ibid, pg. 749.

⁵⁰ Ibid, pg. 746 – 747.

⁵¹ Ibid, pg. 749 -750.

⁵² Jacob Lacombe, "The Political Weaponization of Gun Owners: NRA's Cultivation, Dissemination and the Use of Group Social Identity," *The Journal of Politics* Volume 81, Number 4 (2019), pg. 1343 – 1344, <http://dx.doi.org/10.1086/704329>

altered the public's perception on gun ownership.⁵³ Gun control is then seen as a threat to the 2nd Amendment right guaranteed in the Constitution.⁵⁴

By creating a positive social identity around gun ownership, the National Rifle Association backed candidates who aligned ideologically with the NRA's policy objectives. According to Musa, the NRA mobilized their five million members to engage in non-political activities such as, phone banking, letter writing campaigns, and political donations.⁵⁵ The NRA created the NRA Institute for Legislative Affairs (NRA – ILA). NRA – ILA allowed them to hire former legislators to lobby elected officials who would carry out the NRA's policy goals.⁵⁶

The NRA dangles money and electoral support over the heads of Republican lawmakers in an attempt to sway public opinion. According to Spies, the NRA flooded Florida with pro-gun legislation because they knew Governor Rick Scott would pass it.⁵⁷ In 2014, Governor Scott passed a law that allowed people without a permit to carry a concealed handgun during an evacuation.⁵⁸ If the bill did not pass, the NRA threatened to pull support for Republican lawmakers, including Governor Scott. Governor Scott was up for reelection. Needless to say, he won reelection and signed the bill.⁵⁹ Before and after 2014, the NRA worked behind the scenes to elect their preferred candidate into office.

⁵³ Ibid, pg. 1349, <http://dx.doi.org/10.1086/704329>

⁵⁴ Ibid, pg. 1352 – 1353, <http://dx.doi.org/10.1086/704329>

⁵⁵ Sam Musa, "The Impact of NRA on the American Policy," *Journal of Political Science and Public Affairs* Volume 4, Issue 4 (2016), pg. 1 -2, <https://www.longdom.org/open-access/the-impact-of-nra-on-the-american-policy-2332-0761-1000222.pdf>

⁵⁶ Ibid, pg. 2 – 3, <https://www.longdom.org/open-access/the-impact-of-nra-on-the-american-policy-2332-0761-1000222.pdf>

⁵⁷ Mike Spies, "The NRA's Lobbyist Behind Florida's Pro Gun Policies," *New Yorker Magazine*, February 23, 2018, <https://www.newyorker.com/magazine/2018/03/05/the-nra-lobbyist-behind-floridas-pro-gun-policies>

⁵⁸ Mike Spies, "The NRA's Lobbyist Behind Florida's Pro Gun Policies," *New Yorker Magazine*, February 23, 2018, <https://www.newyorker.com/magazine/2018/03/05/the-nra-lobbyist-behind-floridas-pro-gun-policies>

⁵⁹ Mike Spies, "The NRA's Lobbyist Behind Florida's Pro Gun Policies," *New Yorker Magazine*, February 23, 2018, <https://www.newyorker.com/magazine/2018/03/05/the-nra-lobbyist-behind-floridas-pro-gun-policies>

Methodology:

This is exemplified in the 2012 Presidential Election and 2016 Presidential Election where the NRA's money and influence played a significant role in the electoral system. Through a comparative case study of the National Rifle Association's donation behavior during the 2012 Presidential Election and the 2016 Presidential Election, this case study concludes the National Rifle Association was able to elect their preferred candidate in 2016 but not in 2012 due to two things. First, in 2012, Mitt Romney was not ideologically aligned with the NRA, so the NRA prioritized access to the legislative process over winning electoral seats. Second, in 2016, Donald Trump stated he was ideologically aligned with the NRA. This made it easy for the NRA to push Trump by running negative ads attacking Hillary Clinton. Prior work focused on interest groups gaining access to the legislature before a major election or vote in Congress, but after *Citizens United* money became a voice in the electoral process and interest groups capitalized on it quickly. Moreover, prior work does not explain how interest groups allocate campaign contributions to increase their chances of electing their preferred candidate into office. This essay will advance the hypothesis that interest groups who use an electoral donation strategy, as opposed to an access-oriented donation strategy, increase their chances of electing their preferred candidate into office.

This essay utilizes NRA contribution reports given to the Federal Election Commission (FEC). The FEC labels contributions as "*total contributions*." The FEC shows the total amount of contributions in one column, then breaks the total amount of contributions into categories. One of these categories is, "*outside spending*," which further breaks down into independent expenditures. The FEC labels spending on issue advertisement as an independent expenditure. This case study will compare the NRA's independent expenditures in the 2012 Presidential

Election and 2016 Presidential Election, against television ad campaigns the NRA waged in both elections. This essay uses data on the percentage of ads that contain, “pro - gun references,” in the 2012 election and 2016 election cycles. This essay also uses data on tv ad spending by candidate and interest group in the 2012 and 2016 election cycle. This essay uses three articles written after the 2016 Presidential Election demonstrating three things. One, how negative ads from interest groups garner less backlash from voters than ads produced by the candidate running for office. Two, how Donald Trump escaped the backlash effect by allowing the NRA to run the ads, instead of himself. Finally, how pro Trump political action committees attacked Hillary Clinton based on her character traits rather than her policy. This strategy appealed to more voters than the ads used by pro Hillary Clinton political action committees.

Comparative Case Study: The National Rifle Association:

The National Rifle Association is a nonprofit organization with the purpose of, “promoting and encouraging rifle shooting on a scientific basis,” for hunting and sporting purposes. However, the National Rifle Association shifted to lobbying for gun rights in the legislative and the electoral process.

Prior to *Citizens United*, the NRA could not use money from its general treasury fund to explicitly defeat a candidate for federal office. To compensate, the NRA created, “NRA News.”⁶⁰ The NRA News (a news source for gun owners/ gun enthusiast) called itself, “an ideological nonprofit corporation,” which became a conduit for political spending. NRA News allowed them to solicit donations from their members and give those donations to a candidate’s political party.⁶¹ The NRA News dissolved in 1975 and formed the Institute for Legislative

⁶⁰ Richard L Hansen, “*Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections*,” Chapter 6: The News Media, Yale University Press, (2016), pg. 137

⁶¹ Ibid, pg. 137.

Action NRA – ILA. NRA ILA is the lobbying arm of the National Rifle Association. Through the NRA – ILA, the NRA had the power to solicit donations from members and donate it directly to a candidate without reporting it to the FEC.⁶²

The beginning of 2012 was marked by the resignation of U.S Representative Gabriel Gifford. Gabriel Gifford was shot in an Arizona mass shooting. The shooting left her paralyzed and wounded eighteen other people.⁶³ After the shooting, the Obama administration took steps to restrict the mentally ill from obtaining assault rifles. In response, the NRA mobilized its members to donate to candidates running in the next election who would protect 2nd amendment rights. One of these candidates the NRA supported was Mitt Romney.

Come November 2012, Barack Obama ran against Mitt Romney. The NRA endorsed Mitt Romney. According to 2012 Federal Election Commission data (compiled by Open Secrets: Center for Responsive Politics), the National Rifle Association contributed \$1,195,442. Their independent expenditures totaled \$18,607,356.⁶⁴ 2012 would be the most expensive general election.

Independent expenditures, money used for advertisements allowing the interest group to explicitly say, “elect or defeat,” made it possible for the NRA to explicitly supporting Mitt Romney. According to Barry, et al, 86% of the Republican candidate ads had pro-gun references.⁶⁵ Moreover, 45% of these ads made, “pro NRA mentions,” with the 2012 election

⁶² Ibid, pg. 138.

⁶³ Marc Lacey and David M. Herszenhorn, “In Attack’s Wake, Political Repercussions,” The New York Times, January 8, 2011, <https://www.nytimes.com/2011/01/09/us/politics/09giffords.html?auth=login-email&login=email>

⁶⁴ Open Secrets, “National Rifle Association Profile,” 2012 Election Cycle, <https://www.opensecrets.org/orgs/summary?topnumcycle=2012&topprecipcycle=2012&contribcycle=2012&lobcycle=2012&id=d000000082&outspendcycle=2012>

⁶⁵ Colleen L. Barry, Sachini Bandara, Erika Franklin Fowler, Laura Baum, Sarah E. Gollust, Jeff Niederdeppe, and Alene Kennedy Hendricks, “Guns In Political Advertising Over Four US Election Cycles, 2012–18,” *Health Affairs*, 39, No. 2 (2020) Pg. 330, <https://doi.org/10.1377/hlthaff.2019.01102>

cycle containing more pro NRA ads than the 2016 election cycle.⁶⁶ However, only 23% of the ads in 2012 mentioned 2nd Amendment rights.⁶⁷ In 2012, Republican outside interest groups aired 51% of all pro Romney ads.⁶⁸ This breaks down to 673 ads aired in 19 different media markets.⁶⁹ The NRA drowned the media market in Pennsylvania with \$4.95 million in ads.⁷⁰ However, Obama won Luzerne County, Pennsylvania by 53% of the vote. Romney lost that same county by 46.8% of the vote.⁷¹ By the same token, the NRA spent a total of \$5,677,949 on broadcast ads during the 2012 election.⁷² The NRA worked hard to push their candidate of choice through ads, but Obama won.

Obama's re – election victory was due to three factors, with the third factor being the one attributed to Romney's loss. One, Obama's campaign outspent Romney by dumping their money into social media advertising and broadcast tv advertising. Two, Obama's campaign painted Romney as a candidate who was "removed," from the struggles Americans faced; mainly the economy.⁷³ Third, Mitt Romney did not align ideologically with the NRA throughout his career as Governor of Massachusetts. As Governor of Massachusetts, Mitt Romney's stance on gun control was not consistent. Romney quadrupled gun licensing fees, making it harder for people to register fire arms. In 1994 he claimed, "I don't line up 100%

⁶⁶ Ibid, pg. 330.

⁶⁷ Ibid, pg. 330 – 331.

⁶⁸ Admin, Wesleyan Media Project, "Presidential Ad Wars Top \$1 Million," Wesleyan Media Project, November 2, 2012, <https://mediaproject.wesleyan.edu/presidential-ad-war-tops-1m-airings/>

⁶⁹ Ibid

⁷⁰ Admin, "2012 Shatters 2004 and 2008 Record for total aids aired," Wesleyan Media Project, October 24, 2012, <https://mediaproject.wesleyan.edu/2012-shatters-2004-and-2008-records-for-total-ads-aided/>

⁷¹ Politico, "2012 Presidential Race," Data provided by the Associated Press, 2012, <https://www.politico.com/2012-election/results/president/pennsylvania/>

⁷² Open Secrets: Center for Responsive Politics: National Rifle Association Expenditures, 2012 cycle, <https://www.opensecrets.org/outsidespending/expenditures.php?cmte=C00053553&cycle=2012>

⁷³ John Dickerson, "The Bubble Wars: Both Obama and Romney are trying to paint the other candidate as out of touch with real Americans," Politics, Slate, April 16, 2012, <https://slate.com/news-and-politics/2012/04/the-2012-presidential-election-is-obama-or-romney-the-one-who-is-out-of-touch.html>

with the NRA.” Romney demonstrated he was not ideologically aligned.⁷⁴ Politico reported as Governor, Romney supported two of the toughest gun control measures.⁷⁵ He supported the Brady Bill and a ban on assault style rifles. The Brady Bill mandated background checks on fire arms purchased in the U.S.⁷⁶ In 2004 he signed a permanent ban on assault weapons, stating, “these guns are not made for recreation or self-defense.”⁷⁷

As soon as Romney made his bid for president in 2008, he supported the NRA. Romney supported the right of Americans to own guns. Romney viewed the 2nd Amendment right as intrinsic to American life, and did not support adding new legislation to the assault weapons ban.⁷⁸ On one hand, he supported the Brady Bill, but on the other, became a lifetime member of the NRA. This 360-degree shift did not sit well with NRA members. A longtime member of the NRA David Ross stated... “He was for an assault weapons ban, what changed? And how do we know he won’t change back?”⁷⁹

Romney’s stance made the NRA nervous that they could not elect their preferred candidate into office. With the shooting of Gabriel Gifford and Obama’s push for stricter gun control measures, the NRA stressed access to the legislative process over electoral support for Mitt Romney. During the first half of 2012, the NRA spent \$695,000 and their efforts were

⁷⁴ Mackenzie Weinger, “Mitt Romney’s Stance on Gun Control,” Politico, July 20, 2012, <https://www.politico.com/story/2012/07/mitt-romneys-stance-on-gun-control-078767>

⁷⁵ Mackenzie Weinger, “Mitt Romney’s Stance on Gun Control,” Politico, July 20, 2012, <https://www.politico.com/story/2012/07/mitt-romneys-stance-on-gun-control-078767>

⁷⁶ Authenticated U.S Government Information GPO, “Brady Handgun Control H.R 1025,” 1993, One Hundred and Third Congress First Session, <https://www.congress.gov/103/bills/hr1025/BILLS-103hr1025enr.pdf>

⁷⁷ Mackenzie Weinger, “Mitt Romney’s Stance on Gun Control,” Politico, July 20, 2012, <https://www.politico.com/story/2012/07/mitt-romneys-stance-on-gun-control-078767>.

⁷⁸ Rachel Weiner, “Where Obama and Romney stand on gun control,” Politics, Washington Post, July 20, 2012, https://www.washingtonpost.com/blogs/the-fix/post/where-obama-and-romney-stand-on-gun-control/2012/07/20/gJQAwMpNyW_blog.html

⁷⁹ Trip Gabriel, “Romney Assures NRA of Support for Gun Rights, New York Times, April 13, 2012, <https://www.nytimes.com/2012/04/14/us/politics/mitt-romney-assures-gun-rights-group-of-his-fealty.html>

directed at the House and Senate.⁸⁰ In total, the NRA spent \$2.9 million on lobbying efforts in 2012, more money than in previous years.⁸¹ At the same time, the NRA pushed Congress to pass pro - gun legislation at the federal level.

By December of 2012, the NRA lobbied for pro – gun legislation in Congress. In December of 2012 the Sandy Hook Elementary School mass shooting killed twenty children and six adults. In response to the deadly mass shooting, the NRA lobbied for bills that would loosen gun restrictions. According to Childress, twenty-seven states passed ninety-three laws expanding gun rights. Out of a thousand pieces of legislation presented to Congress in 2013, 43 gun control bills passed.⁸² After the shooting, the NRA spent \$655,000 in lobbying efforts.⁸³ Furthermore, the Obama Administration proposed the Manchin Toomey Amendment, requiring background checks at gun shows and for online purchases. The NRA poured \$830,000 to influence Members of Congress to vote against the bill. The amendment failed 54 to 46.⁸⁴ Four years later, the NRA found a presidential candidate they felt supported their policy goals in the legislative process.

In 2016, the NRA backed Donald Trump. Donald Trump said in a 2016 Second Amendment Speech transcribed by Time Magazine, “Your Second Amendment, the National Rifle Association endorsed and they endorsed me early,”⁸⁵ In 2016, the NRA contributed a total

⁸⁰ Dave Levinthal, “NRA Spends Record Money on Lobbying This Year,” The Center for Public Integrity, April 20, 2013, <https://publicintegrity.org/politics/nra-spends-record-money-on-lobbying-this-year/>

⁸¹ Open Secrets, “National Rifle Association: Opensecrets.org NRA Summary and Profile, <https://www.opensecrets.org/orgs/summary?id=d000000082>

⁸² Sarah Childress, “The Gun Lobby’s Concealed Weapon,” PBS Frontline, May 20, 2013, <https://www.pbs.org/wgbh/frontline/article/the-gun-lobbys-concealed-weapon/>

⁸³ Sarah Childress, “The Gun Lobby’s Concealed Weapon,” PBS Frontline, May 20, 2013, <https://www.pbs.org/wgbh/frontline/article/the-gun-lobbys-concealed-weapon/>

⁸⁴ Ibid

⁸⁵ Time Staff, “Read the Full Transcript of Donald Trump’s ‘Second Amendment’ Speech,” Time Magazine, August 9, 2016, <https://time.com/4445813/donald-trump-second-amendment-speech/>

of \$1,094,909 with independent expenditures totaling \$52,582,309.⁸⁶ Although the NRA's total contributions were lower in 2016, their independent expenditures increased during that same year.⁸⁷

To solidify their chances electing a candidate who would win the presidency, the NRA launched a series of TV ads to influence voters. At this point for the NRA, relying on an access-oriented donation strategy was not as valuable given the amount of money the NRA poured into ads campaigns. The NRA spent a total of \$10,565,655 on broadcast ads.⁸⁸ The NRA spent more in 2016 on broadcast ads than they did in 2012. According to Barry, et al in 2016, 25% of the Republican candidate ads had gun related mentions referring to the NRA.⁸⁹ Moreover, only 23% of the ads mentioned 2nd Amendment rights.⁹⁰ In the ads sampled, 2016 had two ads focused on guns. The rest of the ads did not make direct reference to the NRA.⁹¹ The ads featured the NRA logo at the end of the ad or implied support for Trump by showing traditional American values.⁹²

By the NRA showing ads implying support for Trump, but not saying his name he managed to escape the, “backlash effect.” According to Dowling and Wichowsky, partisan and ideological ads sponsored by interest groups or political parties remove the link between the

⁸⁶ Open Secrets: Center for Responsive Politics, National Rifle Association 2016 Profile, <https://www.opensecrets.org/orgs/summary?topnumcycle=2016&toprecipcycle=2016&contribcycle=2016&lobcycle=2016&id=d000000082&outspendcycle=2016>

⁸⁷ Open Secrets: Center for Responsive Politics, National Rifle Association 2016 Profile, <https://www.opensecrets.org/orgs/summary?topnumcycle=2016&toprecipcycle=2016&contribcycle=2016&lobcycle=2016&id=d000000082&outspendcycle=2016>

⁸⁸ Open Secrets: Center for Responsive Politics, “National Rifle Association Expenditures 2016 Cycle,” <https://www.opensecrets.org/outsidespending/expenditures.php?cmte=C00053553&cycle=2016>

⁸⁹ Colleen L. Barry, Sachini Bandara, Erika Franklin Fowler, Laura Baum, Sarah E. Gollust, Jeff Niederdeppe, and Alene Kennedy Hendricks, “Guns In Political Advertising Over Four US Election Cycles, 2012–18,” *Health Affairs*, 39, No. 2 (2020) Pg. 330, <https://doi.org/10.1377/hlthaff.2019.01102>

⁹⁰ Ibid, pg. 330.

⁹¹ Ibid, pg. 330.

⁹² Ibid. pg. 330.

negative ad and the candidate.⁹³ Interest groups provide a benefit to the candidate because voters do not make the direct association between the ad and the candidates position towards an issue.⁹⁴ Therefore, voters do not come to negative conclusions about the candidate.⁹⁵ Political action committees are not accountable to anyone, so they can say what they want and it will not backfire on the campaign or the candidate.

This dynamic was advantageous for the NRA because they could run as many attack ads as they wanted to elect their candidate of choice into office. In 2016, their candidate of choice was Donald Trump. One of the ads the NRA ran featured a frantic woman calling 911 because her home was burglarized. She reached for the gun she kept in a safe, but it was not there. The ad goes on to say, "...But Hillary Clinton could take her right to self-defense...do not let Hillary leave you protected with nothing but a phone."⁹⁶ This ad played into the fear Hillary Clinton would leave people defenseless in the face of danger. This threat mobilized NRA members to donate money to Donald Trump.

Moreover, this ad attacks Clinton's stance on guns without mentioning Donald Trump. The NRA logo is displayed at the end, so the voter does not link the ad to Trump. As Geer explained, the candidate that is trying to find issue with his opponent will highlight areas of

⁹³ Conor M Dowling and Amber Wichowsky, "Attacks without Consequence? Candidates, Parties, Groups, and the Changing Face of Negative Advertising," *American Journal of Political Science*, Vol. 59, No. 1 (January 2015), pg. 32 – 33, <https://www.jstor.org/stable/24363594>

⁹⁴ Conor M Dowling and Amber Wichowsky, "Attacks without Consequence? Candidates, Parties, Groups, and the Changing Face of Negative Advertising," *American Journal of Political Science*, Vol. 59, No. 1 (January 2015), pg. 31 – 32 .

⁹⁵ Conor M Dowling and Amber Wichowsky, "Attacks without Consequence? Candidates, Parties, Groups, and the Changing Face of Negative Advertising," *American Journal of Political Science*, Vol. 59, No. 1 (January 2015), pg. 32 – 33, <https://www.jstor.org/stable/24363594>

⁹⁶ Tim Hains, "NRA Pro-Trump Ad: 'Don't Let Hillary Clinton Leave You Defenseless,'" Real Clear Politics, September 20, 2016, https://www.realclearpolitics.com/video/2016/09/20/nra_pro-trump_ad_dont_let_hillary_clinton_leave_you_defenseless.html

disagreement and show how ill-advised their opponents policy plan seems.⁹⁷ The ad implies Hillary Clinton will take away the right to self-defense, which puts everyone in danger especially women.⁹⁸

The 2016 election cycle saw tv ads that were drastically different in tone than the 2012 election. In the 2012 election cycle around 70% of the ads were negative.⁹⁹ According to Fowler, Ridout and Franz, around 55% of the tv ads in 2016 election cycle were negative.¹⁰⁰ The decline is attributed to the tone of Donald Trump's ads. According to Fowler, Ridout and Franz, Donald Trump's ads were contrast ads. Donald Trump's contrast ads portrayed Hillary Clinton negatively, but transmitted valuable information about Trump.¹⁰¹ In total, Hillary Clinton's ads focused on Trump's character flaws 60% of the time, and focused on her policy 25% of the time.¹⁰² Trump's ads focused on his policies and a discussion about his policies 70% of the time.¹⁰³ Trump's ad strategy allowed him to run a campaign where his issue debate matched the debate of the NRA. Likewise, it became easy for the NRA to push Trump electorally given this mutual relationship. According to Geer, candidates [including Trump] will pour over the past

⁹⁷ John G. Geer, *"In Defense of Negativity: Attack ads in Presidential Campaigns,"* Chapter 5: Evaluating the Content of Negative and Positive Issue Appeals, University of Chicago Press (2006), pg. 104.

⁹⁸ Michael Beckel, "Gun Loving Women Should Not Vote for Hillary, Says NRA," Center for Public Integrity, October 19, 2016, <https://publicintegrity.org/politics/gun-loving-women-should-not-vote-for-hillary-says-nra/>

⁹⁹ Admin, "Presidential ads 70% negative in 2012, up from 9% in 2008," Wesleyan Media Project, May 2012, <https://mediaproject.wesleyan.edu/jump-in-negativity-2/>

¹⁰⁰ Erika Franklin Fowler, Travis N. Ridout and Michael M. Franz, "Political Advertising in 2016: The Presidential Election as Outlier?" De Gruyter, *The Forum*, Volume 14, Issue 4 (February 2017), <https://doi.org/10.1515/for-2016-0040>, pg. 458.

¹⁰¹ Erika Franklin Fowler, Travis N. Ridout and Michael M. Franz, "Political Advertising in 2016: The Presidential Election as Outlier?" De Gruyter, *The Forum*, Volume 14, Issue 4 (February 2017), <https://doi.org/10.1515/for-2016-0040>, pg. 457.

¹⁰² Ibid, pg. 458

¹⁰³ Ibid, pg. 459.

actions of the opposition for weaknesses.¹⁰⁴ The NRA used Hillary Clinton's past actions to weaken her chance of garnering votes and winning.

The NRA ran an ad attacking Hillary for her past actions as Secretary of State during the Benghazi attack. The ad featured a soldier who survived the Benghazi attack stating, "...I served in Benghazi. My friends did not make it. Hillary as president? No thanks. I did my part, you do yours."¹⁰⁵ The ad has nothing to do with guns, but pointed to her past actions as Secretary of State. This ad demonstrated to the American public Hillary Clinton, "obstructed," efforts to save soldiers on the battlefield.¹⁰⁶ This ad ran in swing states such as, Ohio, Nevada, Pennsylvania, Virginia, Maine and Colorado.¹⁰⁷ The ad was sponsored by the NRA instead of Trump. Thus, the backlash effect was minimal.

The tv ads the NRA aired were not only contrast ads, but they were ad hominem attack ads. According to Tedesco and Dunn, ad hominem attack ads focus on the personal characteristics of the candidate or leadership traits.¹⁰⁸ The Benghazi ad was an attack of Hillary Clinton's leadership traits. Ad hominem attack ads garner attention to personal characters rather than policy arguments.¹⁰⁹ In the ads produced by pro Trump political action committees the focus of the ad was split between character appeal and campaign issues.¹¹⁰ Likewise, 37% of pro Trump political action committee ads attacked Hillary based on her policy. Whereas, 53% of the

¹⁰⁴ John G. Geer, *"In Defense of Negativity: Attack ads in Presidential Campaigns,"* Chapter 7: Negativity, Democracy, and the Political System," University of Chicago Press (2006), pg. 154.

¹⁰⁵ Will Drabold, "NRA ad attacks Hillary Clinton Without Mentioning Guns," Time Magazine, June 29, 2016, <https://time.com/4388207/nra-national-rifle-association-ad-hillary-clinton/>

¹⁰⁶ Ibid

¹⁰⁷ Ibid.

¹⁰⁸ John C. Tedesco and Scott W. Dunn, "Political Advertising in the 2016 U.S Presidential Election: Ad Hominem Ad Nauseam," *American Behavioral Scientist*, Volume 63, Issue 7 (2019), <https://doi.org/10.1177/0002764218756919> , pg. 939.

¹⁰⁹ Ibid, pg. 940.

¹¹⁰ Ibid, pg. 943.

pro Trump political action committee ads attacked Hillary based on her character.¹¹¹ However, pro Hillary Clinton political action committee ads focused on Trump's character 87% of the time.¹¹² Hillary's campaign and pro Hillary political action committees missed the opportunity to highlight her policy objectives. Instead, pro Hillary political action committees focused on attacking Trump's character.¹¹³ It should be noted, Hillary Clinton's campaign also missed the opportunity to campaign and run ads in states like, Wisconsin and Michigan, thus giving pro Trump interest groups such as, the NRA a more diverse strategy to appeal to voters.¹¹⁴ The NRA appealed to vulnerable women at home alone and to the soldiers who fought in Benghazi. This is all to show Hillary is unfit to serve as president because she will not protect fellow Americans. Ad hominem ads work to sway voters because the ads and the candidates themselves do not receive backlash from voters.¹¹⁵ This is in part due to two things, the backlash effect discussed earlier and voter agreement with the ad itself. Voters either agreed with the ad and its portrayal of Hillary, or liked the fact pro Trump political action committees were able to wage those kinds of attacks.¹¹⁶

All of this created the perfect environment for the NRA to use an electoral oriented donation strategy to push Donald Trump. According to Fowler, Ridout and Franz, the NRA ran 9,638 ads, amounting to \$11.1 million in 2016.¹¹⁷ By comparison, the NRA ran 7,451 more ads in 2016 than 2012.¹¹⁸ In 2016, the NRA deployed an electoral oriented donation strategy which

¹¹¹ Ibid, pg. 943

¹¹² Ibid, pg. 943.

¹¹³ Ibid, pg. 943 – 944.

¹¹⁴ Ibid, pg. 945

¹¹⁵ Ibid, pg. 943 – 944.

¹¹⁶ Ibid, pg. 939.

¹¹⁷ Erika Franklin Fowler, Travis N. Ridout and Michael M. Franz, "Political Advertising in 2016: The Presidential Election as Outlier?" De Gruyter, *The Forum*, Volume 14, Issue 4 (February 2017), <https://doi.org/10.1515/for-2016-0040> pg. 452 Table 4

¹¹⁸ Admin, Wesleyan Media Project, "Presidential ads war tops 1 million airings," November 2, 2012, <https://mediaproject.wesleyan.edu/presidential-ad-war-tops-1m-airings/>

in turn increased their chances of electing their preferred candidate into office. The NRA ran ads and these ads did not receive the backlash effect. Also, Trump remained ideologically consistent throughout his campaign. In fact, Donald Trump made multiple speeches claiming he was the “2nd Amendment President.” The NRA knew how and where to spend their independent expenditures, at the same time mobilize and attract voters.

As previous studies pointed out, interest groups, especially partisan interest groups, will allocate their campaign contributions based on how useful the donation will be to elect a candidate (electoral donation). In other words, interest groups want to maximize their electoral donation, so simply meeting with candidates to influence policy is not enough to win. The NRA occupies a highly politicalized industry making them more likely to deploy an electoral donation strategy, over an access-oriented donation strategy. The NRA has access to the legislature as demonstrated in their efforts to restrict gun control legislation after the Sandy Hook Shooting. The NRA needed a candidate who they could endorse and at the same time could win the presidency. This can be accomplished by simply finding the right candidate who will align ideologically and remain consistent with the interest group’s policy objectives.

Discussion:

The *Citizens United* ruling allowed a plethora of interest groups to surface advocating for a variety of policies at the federal level. *Citizens United* permitted money to flow freely from interest groups (and corporations) to candidates, then back to voters in the form of television ads explicitly calling for the defeat of a candidate. One of those interest groups who donates to political campaigns and runs ads is the NRA. Despite major mass shootings in the United States, the NRA managed to shift the discussion away from gun control by spending money on lobbying efforts, campaign contributions and ads during election cycles.

The NRA spent more in total contributions and independent expenditures in the 2012 Presidential Election. However, Mitt Romney was not ideologically aligned with the NRA. Thus, the NRA had a hard time running ads supporting Romney's stance on guns. As a result, the NRA changed their donation strategy stressing access to the legislature and passing pro-gun legislation through Congress. In 2012, the NRA could not deploy an electoral donation strategy to win the presidency, which is the preferred method for ideological and partisan interest groups.

With Obama winning the 2012 Election, the NRA needed to find a candidate that was ideologically aligned with them *and* a candidate they could endorse. In 2016, the NRA backed Donald Trump, but spent less in total contributions and independent expenditures. By backing a candidate who was ideologically aligned, the NRA was able to spend less in total contributions, instead relying on negative attack ads to demonstrate Trump's stance on guns.

This essay used a comparative case study of the NRA's total contributions and independent expenditures, in the 2012 Presidential Election and the 2016 Presidential Election compared to the television ads the NRA deployed in both elections. This case study used contribution reports from the FEC, television ad data from Wesleyan Media Project, NRA television ads from the 2016 election, and analysis of negative ad campaigns to prove interest groups who deploy an electoral oriented donation strategy increase their chances of electing their preferred candidate into office.

Conclusion:

Previous literature stressed the importance of an electoral donation strategy over an access - oriented donation strategy. This is because *Citizens United* has drastically changed the way candidates and interest groups interact with one another to secure seats and pass legislation. Campaign contributions become a mechanism for informing voters of the policy positions of the

candidates running for office. *Citizens United* raised contribution caps and increased the number of times a donor can contribute to the same candidate during an election cycle. This caused candidates to rely on the same wealth donors' multiple times during an election cycle. Interest groups with a strong membership base, like the NRA can rely on other methods of electoral support. One of these methods is using money from the interest groups general treasury to fund advertisements explicitly advocating for one candidate over another. These ads shape the way candidates transmit valuable information to voters up and till Election Day.

The NRA has access to the legislature, they simply want to win seats. One of the ways the NRA can win seats is to use issue ads to advocate for one candidate over another. The NRA deployed this strategy in the 2016 Presidential Election. In the 2016 Presidential Election, Donald Trump aligned ideologically with the NRA and never changed his position on guns. As a result, the NRA waged a negative ad campaign against Hillary to win electoral votes.

Likewise, interest groups are policy maximizers, so they have an incentive to donate to candidates who align with the issue debate of the interest group. The NRA's television ad strategy was to run ad hominem attack ads and contrast ads at the same time. These ads attacked Hillary's policies and her leadership traits, but transmitted valuable information about Trump's stance towards gun rights. The NRA contributed less money in 2016, but because Trump matched the issue debate of the NRA, the NRA felt confident Trump would win. The NRA contributed more money in 2012, but could not elect their preferred candidate because Mitt Romney did not match the issue debate of the NRA. In 2012, Mitt Romney's mixed stance on gun control caused the NRA to value an access-oriented approach. With two mass shootings bookending 2012, the NRA changed their focus from supporting Romney to pushing as much pro-gun legislation through Congress as possible. However, this changed in the 2016 Presidential

Election. In 2016, the NRA felt comfortable deploying an electoral oriented donation strategy to elect their preferred. This proved contributions, an ideologically aligned candidate, and negative ads are more valuable to win votes than access to the legislature.

The NRA occupies a highly politicalized industry. As previous literature stated, highly partisan and ideological interest groups have access to the legislative process, so winning electoral seats becomes more valuable for them. Hence, highly partisan interest groups will favor an electoral donation strategy over an access – oriented donation strategy. Likewise, partisan interest groups that fall on the extreme ends of the political spectrum are better able to advocate and represent their interests ahead of other groups. The NRA occupies a highly partisan industry; thus, they are able to receive better representation in the legislative process. The NRA is a partisan interest group, making them more likely to use an electoral donation strategy over an access-oriented donation strategy. The 2016 election demonstrated the ability for an interest group to find a candidate ideologically aligned, use their general treasury fund to pay for advertisements, with the ultimate goal of electing their preferred candidate into office who will champion the policy objectives of the interest group.

The ability for interest groups to use an electoral oriented donation strategy to champion the policy objectives of their preferred candidate is accomplished through the use of advertisements that explicitly call for the defeat of a candidate. As a result of *Citizens United* interest groups could replay these advertisements multiple times on tv prior to and on Election Day. The second chapter of this thesis dives deeper into how campaign finance reforms meant to protect the electorate were struck down in favor of allowing more money to enter to fund issue advertisements, thereby polarizing the electorate along partisan lines.

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Campaign Finance Reform: The Magnet Polarizing the Electorate and the Media

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Abstract

The intent of campaign finance reforms passed by Congress was to limit large sums of money from entering the political sphere, swaying candidates to cater to those who donated the most and often. However, each time Congress passed a law limiting money, the Supreme Court argued the law restricted freedom of speech during an election. The Supreme Court also argued that the law restricted the flow and access of valuable information transmitted to voters by candidates via media (tv, print or online). The most recent case being the 2010 Supreme Court decision *Citizens United V. Federal Election Commission*. *Citizens United* ruled money is a form of free political speech, therefore; corporations, labor unions, and interest groups can use money to express their opinion for a candidate of their choice. Furthermore, interest groups can donate unlimited sums of money to elect their preferred candidate into office by running independent expenditure advertisements on tv that explicitly advocate for their preferred candidate. This essay explores, “How does the proliferation of interest groups in the form of Political Action Committees impact campaign spending on media advertisements during an election cycle?” By the same token, this essay examines a number of theoretical frameworks explaining the evolution of why campaign finance laws are either expanded to significantly limit money from entering the electoral system, or curtailed to permit unlimited sums of money to enter on the basis campaign finance laws violate freedom of speech. These theoretical frameworks suggest, as interest groups increase spending on issue advertisements, the quantity of issues discussed decreases causing a polarized electorate. To further prove this hypothesis, this paper uses a comparative case study of the 2008 Presidential Election and the 2016 Presidential Election. This case study will show polarization increased from 2008 to 2016 due the sheer amount of money flowing into the electoral system as a result of *Citizens United V. Federal Election Commission*.

Introduction:

In 2010 the Supreme Court threw a magnet into the campaign finance reform arena polarizing the country and dividing electoral outcomes. In 2010, the Supreme Court heard the case *Citizens United V. Federal Election Commission*. *Citizens United* ruled donations from a corporation/ interest group's general treasury to fund media advertisements that explicitly advocate for or against a candidate is a form of free speech. Furthermore, campaign finance laws limiting advertisement expenditures effectively restricts the ability for an interest group to express their political opinion during an election cycle. The Supreme Court ruled corporate/ interest group donations (money) are a form of free speech, therefore; they deserve the same First Amendment protections as individuals receive under the Constitution. This dramatically altered the relationship between candidates and interest groups, giving interest groups with money unlimited access to the candidate running for office, thereby excluding a majority of the electorate. Moreover, this begs the question, "How does the proliferation of interest groups in the form of Political Action Committees impact campaign spending on media advertisements during an election cycle?"

To answer this question, this essay examines a number of theoretical frameworks that explain why campaign finance laws are either expanded by increasing the amount of money an individual can contribute, or curtailed by decreasing the amount of money an individual can contribute. Campaign finance laws are curtailed by equalizing the playing field between candidates and interest groups. Equalizing the playing field requires passing reforms that balance the public interest of preserving the electoral system, while at the same time, maximizing a candidate's benefit of winning. This balance is hard to find, so Congress passed a series of campaign finance laws aimed at benefiting the electorate, by restricting the amount of money

entering the electoral system. Although these laws appear to limit the amount of money entering the political system, they actually create loopholes in other areas. Specifically, allowing interest groups to claim donation caps are a barrier to freedom of speech during an election cycle. The Court argued campaign finance laws restrict freedom of speech, which became the rationale for the Supreme Court to strike down campaign finance reforms. Examining the theoretical frameworks plus two elections will advance the hypothesis that as interest group spending increases on independent expenditure advertisements the quantity of issues discussed decreases, causing a polarized electorate.

To demonstrate interest group spending increased and the quantity of issues discussed decreased, this essay utilizes the Supreme Court case *Citizens United V. Federal Election Commission*. *Citizens United* struck down important provisions of the Bipartisan Campaign Reform Act of 2002 electioneering clause. These provisions of the BCRA were invalidated in favor of maximizing freedom of speech. *Citizens United* also permitted unlimited sums of money to enter the electoral system from an interest group or corporation's general treasury to fund independent expenditure advertisements (media advertisements) in favor of their preferred candidate. These ads explicitly advocated for one candidate, ran up and till Election Day, and were considered a form of free speech. As a result, the Court could do very little to regulate the timing of the ads. Consequently, interest groups could air these ads multiple times during an election influencing the electorate's opinions and pulling them to the extreme.

Furthermore, this essay uses a case study comparing the 2008 presidential election and the 2016 presidential election. This case study shows interest groups in 2008 focused their attention on Congressional races, instead of the presidency because Barack Obama and John McCain discouraged outside interest groups from running negative ads. Interest groups did not

polarize the electorate in 2008, instead polarization occurred along racial, generational and policy lines. However, this was not the case for the 2016 presidential election, where interest group spending, increased on advertisements polarizing the electorate, along with controversies surrounding Donald Trump and Hillary Clinton.

To understand how campaign finance reform has evolved over time, it's important to understand the theories behind why campaign finance laws have been planted to grow, thus restricting money entering the electoral system, or have been trimmed permitting money to flow into the electoral system.

Literature Review:

With this in mind, campaign finance reform is the trunk of the tree with the different branches representing the different theories of why campaign finance laws should either be curtailed or expanded. The first branch argues campaign finance laws restrict a person's freedom of speech, and within freedom of speech lies the theory of deliberate democracy. Briefly, deliberate democratic theory argues donations to a political campaign create a forum where voters can freely express their political opinion towards a candidate, therefore; campaign finance laws restricting donations do not maximize free speech. While the deliberate democratic theory expands campaign finance laws, the elite democratic theory curtails them. The elite democratic theory argues money accumulated in economic sphere is separate from votes accumulated in the political sphere. Moreover, campaign finance laws keep these two spheres distinct. The second branch of campaign finance theory argues equality is the kernel of campaign finance reform. The input model argues campaign finance laws equalize the playing field between the unequal amounts of resources put into campaigns (money) and the fact money is used to advance political communication. Campaign finance laws must strike a balance between, "partisan interest

reforms,” that benefit the candidate, and “public interest reforms,” that benefit the electorate. However, conflict occurs when laws are passed by Congress, but struck down by the Judiciary to maximize freedom of speech.

Campaign finance laws are a violation of free speech because donations can be used as a mechanism for voicing an opinion about a candidate running for office. According to Pasquale, the Supreme Court justified striking down campaign finance laws on the basis they did not maximize freedom of speech during an election cycle. Moreover, deliberative democratic theory explains why the Supreme Court maximized freedom of speech over upholding campaign finance laws. Deliberative democracy tries to improve democratic processes by creating a [forum] where voters can communicate and reflect openly about political issues.¹¹⁹ The basic principle of this forum is freedom of speech.¹²⁰ Furthermore, this forum allows the speaker and audience to cooperate towards responsible policymaking.¹²¹ The speaker must keep to the topic at hand, whereas, the audience must respect the different opinions of others.¹²² In other words, it’s a two-way street between the speaker and the audience. The audience listening has a right to hear multiple sides of the issue, then make an informed decision based on what they hear.

Deliberative democracy stresses the importance of the voter as a means to cultivate a healthy political debate. In the Supreme Court case *Buckley V. Valeo*, limitations on expenditures by candidates/ committees, limitations on individual spending of \$1,000 or more per individual/ group, limitations on expenditures by candidates from their personal fund, and caps on aggregate expenditures were declared unconstitutional as they violated freedom of speech.¹²³ These

¹¹⁹ Frank Pasquale, “Reclaiming Egalitarianism in the Political Theory of Campaign Finance Reform,” *University of Illinois Law Review*, Number 2, 599(2008), pg. 623, https://digitalcommons.law.umaryland.edu/fac_pubs/1352/

¹²⁰ Ibid, pg. 622.

¹²¹ Ibid, pg. 634.

¹²² Ibid, pg. 634.

¹²³ Ibid, pg. 615 – 616.

restrictions violated an individual's right to voice their political opinion, even if that opinion was voiced through money. Restricting some forms of speech, but allowing and elevating others is a, "foreign," concept to the First Amendment because the First Amendment guarantees the exchange of ideas in a democracy.¹²⁴ In *Buckley V. Valeo*, the Supreme Court maximized free speech, instead of equalizing the playing field between the electorate and candidates.

Equalizing the playing field between the electorate and candidates requires a clear separation between money and votes in the electoral system. According to Stohler, the elite model takes a conservative approach to free speech and argues campaign finance laws must keep money and votes separate. The elite model of democracy allows restrictions on certain types of speech that impede competition during an election.¹²⁵ The elite democratic theory views restrictions on speech as, "institutionally bound," in other words, speech receives protection consistent with the institution it's a part of.¹²⁶ By the same token, the institutionally bound approach compartmentalizes resources and activities into different social spheres. Money is accumulated in the economic sphere and votes are accumulated in the political sphere.¹²⁷ A campaign finance regime that allows the transfer of money from the economic sphere into the electoral sphere, encourages candidates to cater to those with money over those who do not.¹²⁸ Campaign finance laws preserve and protect the institution of elections and the act of holding elections.¹²⁹ Therefore, Congress can regulate speech if it impedes the ability for other social spheres, like the electoral sphere to operate equally.

¹²⁴ Ibid, pg. 621.

¹²⁵ Stephan Stohler, "One Person, One Vote, One Dollar? Campaign Finance, Elections, and Elite Democratic Theory," *Journal of Constitutional Law*, University of Pennsylvania Law School, Volume 12:4, pg. 1261 – 1262, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1189&context=jcl>

¹²⁶ Ibid, pg. 1267.

¹²⁷ Ibid, pg. 1267.

¹²⁸ Ibid, pg. 1274.

¹²⁹ Ibid, pg. 1260.

According to Gottlieb, equality becomes the central theme of campaign finance reform. Gottlieb argues the input model explains the intersection of democracy and campaign finance reforms.¹³⁰ The input model seeks to explain campaign finance reform by examining inequality of election campaigns and inequality of political influence.¹³¹ Inequality of election campaigns is the tension between preserving the equality of citizens in a political system, on one hand, and inequality of wealth on the other.¹³² Unequal amounts of resources can manipulate the political system thus, the need for campaign finance laws increases dramatically.¹³³ Inequality of political influence is the, “undue,” influence money has in the electoral system.¹³⁴ Money in the political system is a double-edged sword. Money advances political communication which is protected by the First Amendment, but money is also regulated to protect the conflicting interests of the public.

Campaign finance reform is a careful balance between the competing interests of candidates and the electorate. This careful balance is explained by two competing theories of campaign finance reform; public interest theory and partisan interest theory. According to La Raja, public interest theory argues campaign finance reform emerges from public outcry over a situation that is, “unjust or undemocratic.”¹³⁵ Public interest theory relies on a scandal that informs the public about corrupt behavior, stirs public opinion, and ultimately pushes elected officials to pass reforms.¹³⁶ Campaign finance reform is pushed by a small group of elites who

¹³⁰ Stephan Gottlieb, “The Dilemma of Election Campaign Finance Reform,” *Hofstra Law Review*, Volume 18, Issue 2, 1989, pg. 232, <https://scholarlycommons.law.hofstra.edu/hlr/vol18/iss2/>

¹³¹ Ibid, pg. 232.

¹³² Ibid, pg. 232.

¹³³ Ibid, pg. 232.

¹³⁴ Ibid, pg. 233.

¹³⁵ Raymond J. La Raja, *Small Change: Money, Political Parties and Campaign Finance Reform*: Chapter 4: Explaining Campaign Finance Reform and the BCRA (Ann Arbor Michigan, The University of Michigan Press, 2008), pg. 84.

¹³⁶ Ibid, pg. 85.

see the system failing, develop a solution (reform), and push policymakers to pass a set of reforms to fix the problem.¹³⁷

Not all reforms are in the interest of the public, some favor the candidate over the electorate. By the same token, La Raja calls this theory, “partisan interest theory.” Partisan interest theory argues reforms are pushed for the private gain of the candidate running for office.¹³⁸ Candidates have an incentive to push for laws that minimize their cost of running for office and maximize their benefits of winning.¹³⁹ Campaign finance laws limiting expenditures and political speech affect the candidate’s ability to communicate his or her policy agenda to the public.¹⁴⁰ Furthermore, politicians will seek to decrease or increase campaign spending limits when they perceive their party losing or winning.¹⁴¹ Partisan interest theory prioritizes the candidate’s interests over the electorate interests.

In an effort to curb campaign spending and prioritize the electorate’s interest, Congress passed the Bipartisan Campaign Reform Act of 2002 (BCRA). However, according to Sebold and Dowdle, the Bipartisan Campaign Reform Act benefited the contributor and the candidate, not the electorate.¹⁴² Hence, the BCRA became a partisan interest reform, not public interest reform. The BCRA banned the use of soft money, but to compensate the BCRA raised the contribution limits for individual donors from \$1,000 to \$2,000 per candidate/ per election cycle.¹⁴³ The BCRA also relaxed limits on aggregate spending. With these two provisions

¹³⁷ Ibid, pg. 85 – 86.

¹³⁸ Ibid, pg. 87.

¹³⁹ Ibid, pg. 87.

¹⁴⁰ Ibid, pg. 87.

¹⁴¹ Ibid, pg. 87.

¹⁴² Karen Sebold and Andrew J. Dowdle, “Can “Letting in Sunlight” Lead to Accidental Sunburn? The Unintended Consequences of Campaign Finance Reform on the Financing of U.S. Presidential Candidates,” *Election Law Journal*, Volume 17, Number 3 (2018), pg. 210, DOI: 10.1089/elj.2018.0517, <https://www-liebertpub-com.proxy1.library.jhu.edu/doi/pdf/10.1089/elj.2018.0517>

¹⁴³ Ibid, pg. 210.

relaxed, candidates had the perfect opportunity to cultivate a, “contributor pond.”¹⁴⁴ A contributor pond allows candidates to solicit the same wealthy donor’s multiple times during an election cycle.¹⁴⁵ Candidates catered to the interests of these donors because their ‘voice’ was “amplified by money,” and money pushes candidates to the finish line.¹⁴⁶

Consequently, these wealthy donors, according to La Raja and Schaffner, tend to lie on the ideological extreme ends of the party (either very liberal or very conservative). La Raja and Schaffner argue individual donors prefer to contribute to candidates that share the same political ideology rather than give to their political party.¹⁴⁷ Active campaign donors tend to hold ideological extreme views and tend to be older, white, wealthy and male.¹⁴⁸ As a result, the bulk money during an election cycle comes from this pool of donors.¹⁴⁹ Conservative donors on the extreme end of the spectrum will give directly to candidates who align with their views, pulling the party to the right.¹⁵⁰ This is because conservative donors view the party as too moderate.¹⁵¹ Liberal donors will contribute to both the candidate and party, pulling both to the left.¹⁵² Simply put, the middle ground of donors and candidates begins to disappear, leaving the ideological ends of candidates and donors.

Conservative and liberal donors finance candidates through donating to an interest group’s political action committee (PAC’s) and these PAC’s pull both parties to the ideological extreme ends. According to McKay, interest groups play a pivotal role in pulling both

¹⁴⁴ Ibid, pg. 212.

¹⁴⁵ Ibid, pg. 212.

¹⁴⁶ Ibid, pg. 212.

¹⁴⁷ Raymond La Raja and Brian Schaffner, "The Ideological Wellsprings of Campaign Money." In Campaign Finance and Political Polarization: When Purists Prevail, 36-59, Ann Arbor: University of Michigan Press, 2015. Accessed February 25, 2021. <http://www.jstor.org/stable/j.ctvdtjp2w.6>. Pg. 36 – 37.

¹⁴⁸ Ibid, pg. 43 – 44.

¹⁴⁹ Ibid, pg. 45.

¹⁵⁰ Ibid, pg. 48.

¹⁵¹ Ibid, pg. 50.

¹⁵² Ibid, pg. 50 – 51.

conservative and liberal donors to opposite ends of the political spectrum. Political action committees prefer to donate to both parties.¹⁵³ However, some PAC's favor one party over another based on the group's ideology.¹⁵⁴ As the ideology of a contributor moves to the far right or left, the more likely the contributor will donate to a PAC, rather than lobby elected officials.¹⁵⁵ Hence, ideology becomes a strong predictor and incentive for political contributions to PACs.

Methodology:

This is a comparative case study examining campaign spending on media advertisements by Barack Obama's campaign in the 2008 presidential election and Donald Trump's campaign in the 2016 presidential election and an interest group closely aligned with him, the Great America PAC. This essay utilizes campaign expenditure reports compiled by Open Secrets: Center for Responsive Politics, specifically on media advertisements from 2008 and 2016 presidential elections. This essay also utilizes several sources including, one book and one journal article written about the 2008 Election explaining campaign spending, election laws at the time, and the causes of polarization. Likewise, this essay uses two journal articles examining Donald Trump's political advertisement strategy and Hillary Clinton's advertisement strategy. These two journal articles demonstrate why Trump won using his ads to persuade voters, and why Hillary lost due to her advertisement strategy. This data concludes interest group spending decreased in 2008, but polarization increased because the electorate itself was splitting along racial, generational, and issue-oriented lines. Whereas, the 2016 presidential election interest group spending on independent expenditure advertisements increased, and polarization increased due to campaign

¹⁵³ Amy McKay, "The Effects of Interest Groups' Ideology on Their PAC and Lobbying Expenditures," *Business & Politics*, Volume 12, Number 2 (June 2010), <https://doi.org/10.2202/1469-3569.1306>, pg. 3 – 4.

¹⁵⁴ Ibid, pg. 6 – 7.

¹⁵⁵ Ibid, pg. 8 – 9.

spending on media advertisements which aired multiple times reinforcing voter opinions, and an already divided electorate over the candidates themselves. This will advance the hypothesis that as interest groups increase spending on media advertisements funded by independent expenditures, the quantity of issues discussed decreases, causing a polarized electorate. Finally, this essay uses one book and one journal article to advance the claim partisan media advertisements polarize the electorate and this polarization has only gotten worse due to the court case *Citizens United V. Federal Election Commission*.

The Supreme Court Case that Changed Campaign Finance Reform:

In 2010, the Supreme Court heard the case *Citizens United V. Federal Election Commission*. Citizens United, a nonprofit Conservative corporation, produced and released a film called, *Hillary The Movie*. *The Movie* was released to the public in January of 2008 prior to the primary election between Barack Obama and Hillary Clinton. *Hillary The Movie* was a documentary critiquing Hillary Clinton's time as a Senator before she became a candidate in the 2008 Presidential Primary.¹⁵⁶ Moreover, Citizens United released the film in theaters, but increased the distribution of the film by making it available through video on demand services.¹⁵⁷ This allowed people to watch the film at home for free. In order to pay for the on-demand services, Citizens United paid Comcast \$1 million to broadcast the film.¹⁵⁸ Citizens United paid Comcast directly "from [their] political action committee funded by donations from individuals."¹⁵⁹ Citizens United decided to release the film thirty days before the primary election violating federal election law.

¹⁵⁶ Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 651 – 652.

¹⁵⁷ Ibid, pg. 651 - 652.

¹⁵⁸ Richard L. Hanson, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections* Chapter 5: Censorship, (New Haven and London, Yale University Press, 2016), pg. 107.

¹⁵⁹ Ibid, pg. 107.

The Federal Election Commission banned the release of the film because Citizens United violated the Bipartisan Campaign Reform Act of 2002 (BCRA) electioneering clause. The Bipartisan Campaign Reform Act's electioneering clause, "prohibits corporations from using their general treasury funds for "electioneering communications."¹⁶⁰ Electioneering communication is, "any broadcast, cable, or satellite communication that refers to a clearly identified federal candidate made within 60 days of a general election or 30 days of a primary election."¹⁶¹ It's worth mentioning, electioneering communication is also called issue advertisements, and funded through soft money.¹⁶² Soft money is money donated to a political party for, "party building activities," such as, voter registration drives, get out the vote events, and issue advertisements.¹⁶³ Soft money is not subjected to FEC regulations because it is donated directly to a party and not the candidate.¹⁶⁴

Citizens United sued the FEC because Citizens United argued banning the film violated their First Amendment right. The Supreme Court agreed with Citizens United and argued, "speech is essential," during an election because voters should acquire information from multiple sources to make an informed decision.¹⁶⁵ Restrictions on political speech is protected by stating speech is subject to "strict scrutiny," under the Constitution.¹⁶⁶ Moreover, to restrict political

¹⁶⁰ L., Paige Whitaker, Erika K. Lunder, Jack Maskell, and Michael Seitzinger, "Legislative Options After Citizens United V. FEC: Constitutional and Legal Issues," Congressional Research Service Issue Brief, March 2010, <https://fas.org/sgp/crs/misc/R41096.pdf>, Summary Page, <https://fas.org/sgp/crs/misc/R41096.pdf>

¹⁶¹ Ibid, Summary Page,

¹⁶² Raymond J. La Raja, *Small Change: Money, Political Parties and Campaign Finance Reform*: Chapter 4: Explaining Campaign Finance Reform and the BCRA (Ann Arbor Michigan, The University of Michigan Press, 2008), pg. 106 – 107.

¹⁶³ Raymond J. La Raja, *Small Change: Money, Political Parties and Campaign Finance Reform*: Chapter 4: Explaining Campaign Finance Reform and the BCRA (Ann Arbor Michigan, The University of Michigan Press, 2008), pg. 107

¹⁶⁴ Ibid, pg. 107.

¹⁶⁵ Cory Brettschneider, *Constitutional Law and American Democracy*: Chapter 5 Free Speech, New York, Wolster Kluwer Law and Business, (2012), pg. 652 – 653.

¹⁶⁶ Ibid, pg. 653.

speech the government must prove the restrictions further a compelling interest of the government *and* the restrictions are narrowly tailored to accomplish those interests.¹⁶⁷

Here, the Supreme Court stated corporations/ unions have the same freedom of speech rights as individuals do under the First Amendment. *Citizens United* permitted money to flow from a corporation's general treasury fund to elect their preferred candidate into office by running advertisements on tv, thereby influencing the public's opinion and polarizing the electorate. Polarization within the electorate occurs for a variety of reasons such as, ideological differences, race, religion, socioeconomic statuses and advances in social media. This essay focuses on how campaign finance reforms allowed money to enter the political system through the use of interest group issue ads that advocate for their preferred candidate over the airwaves.

Case Study:

The 2008 presidential election became a historic election, with the most racially and ethnically diverse electorate. It would also be the first where an African American man won the United States Presidency. However, the 2008 presidential election was costly. According to Open Secrets: Center for Responsive Politics, Barack Obama spent \$729.5 million, and raised \$745 million.¹⁶⁸ Barack Obama was a, "unique candidate," who had a compelling message for young, minority, and middle-class voters.¹⁶⁹ McCain had a hard time connecting to voters because his campaign focused on maintaining former president George H.W Bush's policies, which Obama sought to reverse.¹⁷⁰ McCain also had a hard time raising money. John McCain

¹⁶⁷ Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 652.

¹⁶⁸ Open Secrets Center for Responsive Politics, "Barack Obama Candidate Summary, 2008 Election Cycle," Open Secrets Center for Responsive Politics, data based on FEC Reports, <https://www.opensecrets.org/pres08/summary.php?cycle=2008&cid=N00009638>

¹⁶⁹ Jeanne Cummings, "2008 Campaign Costliest in U.S. history," Politico, November 5, 2008, <https://www.politico.com/story/2008/11/2008-campaign-costliest-in-us-history-015283>

¹⁷⁰ Michael Nelson, *The Election of 2008*, Chapter 6: "The Media Coloring the News," by Marjorie Randon Hershey, Congressional Quarterly Press, Washington D.C (2010), pg. 124.

raised \$368.1 million, and spent \$333.4 million.¹⁷¹ McCain relied on public financing, and received \$84 million via the U.S Treasury to run his presidential campaign.¹⁷²

On the other hand, Obama relied on private donations to fund his campaign. Private campaign donations symbolized the gift that kept on giving because Obama raised money and then spent it on advertising.¹⁷³ By garnering private donations, he was able to turn down public financing, making him the first candidate to do so. By using raising money through private donations, Obama controlled his ad's message and content. McCain's campaign could not because he opted into the public finance system, giving the Republican National Committee control over his ads.¹⁷⁴ By opting into the public financing system, he was also showing his support for the bill he co – sponsored, the McCain Feingold Act also known as the Bipartisan Campaign Reform Act of 2002.¹⁷⁵ Although this co – sponsorship showed his support for campaign finance reform, it also made him the black sheep of the Republican Party, thus the Party did not fully support him when he ran for president in 2008.

Furthermore, the 2008 election saw interest group ad sponsorship decline and candidate ad sponsorship increase. Obama sponsored approximately 94% of his advertising and aired 438,000 ads. Moreover, PACs sponsored around 4% of his ads.¹⁷⁶ So, the need for a PAC to control the message and content of the ad dropped dramatically.¹⁷⁷ By using his own campaign

¹⁷¹ Open Secrets Center for Responsive Politics, "John McCain Candidate Summary 2008 Election Cycle.," Open Secrets Center for Responsive Politics, data based on FEC reports, <https://www.opensecrets.org/pres08/summary.php?cycle=2008&cid=N00006424>

¹⁷² Jeanne Cummings, "2008 Campaign Costliest in U.S. history," Politico, November 5, 2008, <https://www.politico.com/story/2008/11/2008-campaign-costliest-in-us-history-015283>

¹⁷³ Michael M. Franz and Travis N. Ridout, "Political Advertising and Persuasion in the 2004 and 2008 Presidential Elections," *American Politics Research*, Volume 38, Issue 2 (2010), pg. 320, <https://doi.org/10.1177/1532673X09353507>

¹⁷⁴ Ibid, pg. 312.

¹⁷⁵ Kaitlin Washburn, "The legacy and impact of McCain-Feingold," Open Secrets, August 28, 2018, <https://www.opensecrets.org/news/2018/08/the-legacy-of-mccain-feingold/>

¹⁷⁶ Ibid, pg. 312.

¹⁷⁷ Ibid pg. 312.

money to sponsor political ads, Obama was entitled to the lowest rate charged by local tv stations.¹⁷⁸ Moreover, Obama drowned out McCain with political ads in key states such as, Florida, Texas, Indiana, Wisconsin and Iowa.¹⁷⁹ Barack Obama discouraged independent groups from running negative ads during his campaign because they had the potential to divide the country. Likewise, spending by independent groups plummeted from \$442 million in 2004 to \$200 million in 2008.¹⁸⁰ Independent groups shifted their attention from the candidates to Congressional races.¹⁸¹

When it came to issues the electorate cared about, the economy, Iraq and health care took front and center stage. Around 84% of Obama supporters favored a government sponsored health care system, whereas, 72% of McCain voters opposed it.¹⁸² The issue that saw the deepest polarization was the Iraq war, with 12% of Obama supporters favoring it. However, 72% of McCain supporters favored keeping troops in Iraq.¹⁸³ Obama responded by addressing these issues in his ads. He focused on health care/ education 22% of the time, the economy 6% of the time, and taxes/ budget (defense spending) around 6% of the time.¹⁸⁴ Since Obama controlled the

¹⁷⁸ Wesleyan Media Project Admin, “2012 Shatters 2004 and 2008 Record for Total Ads Aired,” Wesleyan Media Project 2012 Election; Releases, October 24, 2012, <https://mediaproject.wesleyan.edu/2012-shatters-2004-and-2008-records-for-total-ads-aired/>

¹⁷⁹ Wesleyan Media Project Admin, “2012 Shatters 2004 and 2008 Record for Total Ads Aired,” Wesleyan Media Project 2012 Election; Releases, October 24, 2012, <https://mediaproject.wesleyan.edu/2012-shatters-2004-and-2008-records-for-total-ads-aired/>

¹⁸⁰ Michael Nelson, *The Election of 2008*, Chapter 8: “Campaign Finance: Fundraising and Spending in the 2008 Elections,” by Marian Currinder, Congressional Quarterly Press, Washington D.C, (2010), pg. 175 – 176.

¹⁸¹ Michael Nelson, *The Election of 2008* Chapter 8: “Campaign Finance: Fundraising and Spending in the 2008 Elections,” by Marian Currinder, Congressional Quarterly Press, Washington D.C, (2010), pg. 182.

¹⁸² Alan I. Abramowitz, “Transformation and Polarization: The 2008 Presidential Election and the New American Electorate,” *Electoral Studies*, Volume 29, Issue 4 (December 2010), pg. 600, <https://doi.org/10.1016/j.electstud.2010.04.006>

¹⁸³ Ibid, pg. 600.

¹⁸⁴ Darrell M. West, “A Report on the 2008 Presidential Nomination Ads: Ads More Negative than Previous Years,” Brookings Institution, July 2, 2008, <https://www.brookings.edu/research/a-report-on-the-2008-presidential-nomination-ads-ads-more-negative-than-previous-years/>

content and the messaging, he could diversify the issues presented in his ads. This was further exemplified in a 30 – minute infomercial Obama ran on tv.

In October 2008, Obama blitzed the airwaves with a 30-minute infomercial. This infomercial ran on every major tv network, CBS, MSNBC, FOX, BET, Univision and TV One.¹⁸⁵ This infomercial informed voters of Obama’s plan for the economy, health care and Iraq. Obama introduces the audience to three families who are struggling to make ends meet. One, a stay-at-home mom whose husband works in a factory, but his job does not pay a living wage to pay the bills.¹⁸⁶ To a husband and wife both retired. However, the husband had to come out of retirement to pay for his wife’s arthritis medication.¹⁸⁷ To an older man whose job was shipped overseas, causing him to lose his pension.¹⁸⁸ Obama promises to cut taxes for the wealthy, give small business tax credits for every person hired, stop tax credits for businesses that ship jobs overseas, fix rising health care costs and provide health care for the uninsured. Finally, Obama states he will reduce the defense budget for Iraq and put that money into schools, hospitals, and roads.¹⁸⁹ This infomercial touched on every issue facing America in 2008. Obama spent around \$3 million on this infomercial, garnering around 33.5 million viewers.¹⁹⁰ This

¹⁸⁵ Michael Nelson, “*The Election of 2008* Chapter 8: “Campaign Finance: Fundraising and Spending in the 2008 Elections,” by Marian Currinder, Congressional Quarterly Press, Washington D.C, (2010), pg. 175.

¹⁸⁶ Barack Obama, “American Stories, American Solutions – 30 minute special,” Youtube, October 29, 2008, <https://www.youtube.com/watch?v=GtREqAmLsoA>

¹⁸⁷ Barack Obama, “American Stories, American Solutions – 30 minute special,” Youtube, October 29, 2008, <https://www.youtube.com/watch?v=GtREqAmLsoA>

¹⁸⁸ Barack Obama, “American Stories, American Solutions – 30 minute special,” Youtube, October 29, 2008, <https://www.youtube.com/watch?v=GtREqAmLsoA>

¹⁸⁹ Barack Obama, “American Stories, American Solutions – 30 minute special,” Youtube, October 29, 2008, <https://www.youtube.com/watch?v=GtREqAmLsoA>

¹⁹⁰ CBS/ AP, “33.5 Million Watched Obama’s Infomercial,” CBS News, October 30, 2008, <https://www.cbsnews.com/news/335m-watched-obamas-infomercial/>

informercial asked Americans to “choose hope over fear and unity over division,”¹⁹¹ which drove his campaign.

By the same token, the electorate itself was already showing signs of polarization not only with policy issues, but along generational and racial lines. The 2008 presidential election saw an increasingly younger electorate, voting Democratic. Barack Obama garnered 66% of voters between the ages of 18 – 29 which made up 18% of the electorate in 2008.¹⁹² Young voters supported him in numbers, with 95% of them voting for Obama.¹⁹³ Around 95% of African Americans supported Obama, and 66% of Hispanics supported him.¹⁹⁴ This election symbolized change conservative voters fought against in the 2016 presidential election.

2016 Presidential Election:

The 2016 presidential election between Donald Trump and Hillary Clinton marked an election with two candidates who had high name recognition, but vastly different policy goals. Donald Trump’s controversial policies on immigration, race-based attacks, his personal attacks against Hillary Clinton, North Korea, and sexual misconduct allegations made him a controversial candidate. Across the aisle, Hillary Clinton’s policies focusing on women, health care, and education. Hillary had her fair share of controversies polarizing the electorate from the FBI probe, Benghazi, e mail scandal, her husband’s affair, and her push for health care reform as First Lady. Between the controversies surrounding both candidates, the negative attention both

¹⁹¹ CBS/ AP, “33.5 Million Watched Obama’s Infomercial,” CBS News, October 30, 2008, <https://www.cbsnews.com/news/335m-watched-obamas-infomercial/>

¹⁹² Michael Nelson, *The Election of 2008*, Chapter 7: “Voting Behavior: A Blue Nation?” by Nicole Mellow, Congressional Quarterly Press, Washington D.C, (2010), pg. 157.

¹⁹³ Alan I. Abramowitz, “Transformation and Polarization: The 2008 Presidential Election and the New American Electorate,” *Electoral Studies*, Volume 29, Issue 4 (December 2010), pg. 597, <https://doi.org/10.1016/j.electstud.2010.04.006>

¹⁹⁴ Michael Nelson, *The Election of 2008*, Chapter 7: “Voting Behavior: A Blue Nation?” by Nicole Mellow, Congressional Quarterly Press, Washington D.C, (2010), pg. 156 – 157.

candidates received from voters, combined with their opposing policies, became the catalyst for polarization within the electorate.

Polarization in 2016 was not only due to negative attention both candidates received from voters due to their controversies, but also attributed to the sheer amount of money entering the 2016 election cycle. Money entering the 2016 election cycle came from candidates and interest groups to fund political advertisements. According to Open Secrets: Center for Responsive Politics, Donald Trump spent \$194.9 million on media making up 57% of his expenditures.¹⁹⁵ Hillary Clinton spent \$351.3 on media, making up 60.7% of her expenditures.¹⁹⁶ Although Clinton spent more on media than Trump, Trump had the backing of Super PACs who used a variety of advertisement strategies to garner support. These strategies gave him the electoral advantage over Hillary Clinton.

Repeated message exposure by interest groups gave him the electoral advantage because Pro Trump PACs diversified their approach to target voters. Pro Trump PACs used contrast ads to praise Trump, but challenge Clinton's issues/ character. Trump PACs aired 37% of ads attacking Clinton's issues/ record, and 53% attacking her character.¹⁹⁷ Pro Trump PACs utilized, "issue appeals," to garner support, by airing 21% positive ads and 41% negative ads.¹⁹⁸ Hence, a mix of both positive and negative issue appeals. Trump PACs contrasted Trump's issues with

¹⁹⁵ Open Secrets Center for Responsive Politics, "Donald Trump Expenditures for 2016 Election," Open Secrets Center for Responsive Politics data based on FEC Reports, 2016, <https://www.opensecrets.org/pres16/expenditures?id=N00023864>

¹⁹⁶ Open Secrets Center for Responsive Politics, "Hillary Clinton Expenditures for 2016 Election," Open Secrets Center for Responsive Politics, data based on FEC reports, 2016, <https://www.opensecrets.org/pres16/expenditures?id=N00000019>

¹⁹⁷ John C. Tedesco and Scott W. Dunn, "Political Advertising in the 2016 U.S Presidential Election: Ad Hominem Ad Nauseam," *American Behavioral Scientist*, Volume 63, Issue 7 (2019), <https://doi.org/10.1177/0002764218756919> , pg. 943.

¹⁹⁸ Ibid, pg. 943 – 944 .

Clinton's around 8% of the time.¹⁹⁹ One of those controversies Pro Trump PACs used against her was the Benghazi attack.

One of the Pro Trump PACs running negative contrast ads was the Great America PAC. According to the Great America PAC's website, they spent \$2 million dollars to air an ad attacking Clinton's handling of Benghazi.²⁰⁰ The ad was called, "Difference." The ad depicted the wife of a Navy Seal who was killed in Benghazi. She says..., "Hillary's response to questions from the State Department were a, "disgrace," The difference is.... "we need a leader who is accountable and truthful to American people," "That leader is Donald Trump,"²⁰¹ This ad contrasts Clinton who is a "liar," and Trump who will protect "fierce patriots," overseas.²⁰² Great America PAC aired this ad 171 times in 5 media markets, with the last airdate on November 8, 2016; Election Day. Hence, voters were exposed to this ad on the *exact* date of the election.²⁰³

Adding to the negativity produced by Pro Trump PACs, were the ads produced by Trump's campaign. The Trump campaign's first ad was called, "Immigration."²⁰⁴ This ad aired a total of 1,047 and times in with 224 viewings in North Carolina, and 336 viewings in Florida.²⁰⁵ This ad aired from August to October 22, 2016. ²⁰⁶ The ad shows two Americas; Hillary's and Trump's. In Hillary's America the system is, "rigged," against Americans, open borders, illegal

¹⁹⁹ Ibid, pg. 943 – 944.

²⁰⁰ Sopan Deb, CBS News, "Pro-Trump super PAC to air new commercial during DNC," found on Great America PAC website, July 25, 2016, <https://www.greatamericapac.com/2016/07/pro-trump-super-pac-air-new-commercial-dnc/>

²⁰¹ Youtube – Great America PAC Ad, "The Difference," Great America PAC, July 22, 2016, <https://www.youtube.com/watch?v=tYTuyKo3WTM>

²⁰² Ibid, <https://www.youtube.com/watch?v=tYTuyKo3WTM>

²⁰³ Political Ad Archive, "Donald Trump/ Hillary Clinton Difference Ad," Great America PAC, 2016/09/07, http://politicaladarchive.org/ad/PolAd_HillaryClinton_DonaldTrump_sj8rt/

²⁰⁴ Domenico Montanaro, "WATCH: Donald Trump Releases First Campaign Ad, To Air in 4 States," Politics, National Public Radio, April 19, 2016, <https://www.npr.org/2016/08/19/490609443/watch-donald-trump-releases-first-campaign-ad-to-air-in-4-states>

²⁰⁵ Political Ad Archive, "Donald Trump/ Hillary Clinton Two America's Immigration ad," aired August 19, 2016 – October, 22, 2016, http://politicaladarchive.org/ad/PolAd_HillaryClinton_DonaldTrump_ef7zx/

²⁰⁶ Political Ad Archive, "Donald Trump/ Hillary Clinton Two America's Immigration ad," aired August 19, 2016 – October, 22, 2016, http://politicaladarchive.org/ad/PolAd_HillaryClinton_DonaldTrump_ef7zx/

immigrants skipping the line.²⁰⁷ In Trump's America the border is, "secure," families kept "safe," and terrorist kept out.²⁰⁸ This ad sought to reinforce and, "connect Clinton's negligent policies to an immigrant crisis that promises to get worse if she is elected."²⁰⁹ These ads tapped into the fear Clinton represents Obama's "heir," to the White House and it would be more of the same policies Conservatives disliked.²¹⁰

Trump could not have exploited feelings of anger/ fear without the Supreme Court case *Citizens United*. *Citizens United* allowed interest groups to spend unlimited sums of money to directly advocate for the defeat of a candidate through the use of media advertisements. These ads did not just play once, they replayed over and over again. These ads became a reinforcement mechanism reminding voters of their positions, moving voters to the extreme.²¹¹ This repeated message exposure increases polarization by, "bolstering the [voters] confidence and certainty in their already held positions."²¹² This repeated message exposure can only be accomplished through money. Money allows interest groups and campaigns to push their issue/ candidate over the airwaves, causing inequalities between those who have resources to communicate their position and those who do not.²¹³ As a result, interest groups with money such as, the Great

²⁰⁷ Domenico Montanaro, "WATCH: Donald Trump Releases First Campaign Ad, To Air in 4 States," Politics, National Public Radio, April 19, 2016, <https://www.npr.org/2016/08/19/490609443/watch-donald-trump-releases-first-campaign-ad-to-air-in-4-states>

²⁰⁸ Domenico Montanaro, "WATCH: Donald Trump Releases First Campaign Ad, To Air in 4 States," Politics, National Public Radio, April 19, 2016, <https://www.npr.org/2016/08/19/490609443/watch-donald-trump-releases-first-campaign-ad-to-air-in-4-states>

²⁰⁹ Kyle Stephan & Prashanth Bhat, University of Maryland, "Ad Analysis of Two Americas: Immigration," University of Maryland Center for Political Communication and Civic Leadership, <https://parcumd.wordpress.com/2016-ad-analyses/donald-j-trump-for-president-two-americas-immigration/>

²¹⁰ Gary C Jacobson, "Polarization, Gridlock, and Presidential Campaign Politics in 2016." *The ANNALS of the American Academy of Political and Social Science* 667, no. 1 (September 2016), <https://doi.org/10.1177/0002716216658921>, pg. 240.

²¹¹ Matthew Levendusky, "How Partisan Media Polarized America, Chapter 4: Can Partisan Media Polarize?" University of Chicago Press, Chicago and London (2013), pg. 86.

²¹² Ibid, pg. 89.

²¹³ John A. Fortunato and Shannon E. Martin, "Intersection of Agenda Setting, the Media Environment and Election Campaign Laws," *Journal of Information Policy*, Volume 6, (2016), pg. 140, <https://www.jstor.org/stable/10.5325/jinfopoli.6.2016.0129>.

America PAC were able to run ads up and till Election Day pushing their candidate and issues of choice across the airwaves. As interest groups accumulate money and use it to influence voter decisions by airing the same ad over and over again, voters will make a decision based on the limited amount of information they have.²¹⁴ When voters receive repeated message exposure through political ads, it only reinforces their position, instead of challenging it.²¹⁵ Likewise, this combined with the unlimited amount of money entering the electoral system caused deep divides among those who can influence policy decisions and those who cannot. This fissure has only grown causing the middle ground of voters to disappear, leaving exact polar opposites of the Democratic and Republican parties. Furthermore, this fissure explains in part why the electorate harbored such extreme opinions of Hillary Clinton and Donald Trump.

Discussion:

The *Citizens United* decision changed the way candidates, donors and interest groups interacted with one another. First the Supreme Court ruled interest groups/ corporations could use their general treasury to fund media advertisements which advocated directly for a candidate over the airwaves. Prior to *Citizens United* media advertisements could not air thirty days prior to a primary election and sixty days prior to a general election. However, after *Citizens United* the Supreme Court ruled independent expenditure ads were a form of free speech therefore; did not have to abide by federal election laws on the timing of the ads. Hence, these ads could repeat multiple times influencing voters up and till Election Day.

By the same token, the Court ruled, donations (in unlimited sums) are a form of expressing one's opinion about a candidate, thus deserves constitutional protections. The Supreme Court afforded interest groups the same constitutional protections individuals have

²¹⁴ Ibid, pg. 141 – 142.

²¹⁵ Ibid, pg. 143.

under the First Amendment; Freedom of Speech. This had lasting implications for election cycles because as interest groups increased their spending on issue advertisements, the quantity of issues discussed decreases, causing a polarized electorate.

Moreover, in the 2008 presidential election Barack Obama discouraged interest groups from running ads on his behalf, thus interest groups focused their attention on Congressional races. Barack Obama also used private donations to fund his own political ads. Obama not only controlled the message and content of the ads, but could vary the subject matter of the ads themselves. Obama's 30 - minute infomercial touched on salient issues affecting Americans from the economy, to health care to the Iraq War. In other words, his ads did not repeat one issue consistently, it was a diverse set of topics. Polarization in 2008 came from within the electorate. The electorate was racially diverse, younger and supported Obama. John McCain garnered support from an older, less diverse voting population, making him less attractive to young/minority voters.

During the 2016 presidential election, interest groups had the ability to donate to a candidate of their choosing, use their general treasury to fund media advertisements that repeated multiple times acting as a reinforcement mechanism pushing voters to the extreme. While Pro Trump PACs such as the Great America PAC contrasted Trump's policies with Clinton's policies, Pro Clinton PACs focused on character attacks. By Pro Trump PACs contrasting his policies with hers, he was able to connect to voters through issue appeals. One of these issue appeals was an ad attacking Clinton's mishandling of Benghazi. The ad reinforced Clinton will not protect American troops, but Trump will. This held true for Trump's campaign where he ran an ad contrasting his policies on immigration with hers, showing her policies towards immigration would endanger Americans, but his would keep Americans safe. These ads

appeared on tv hundreds to thousands of times, only to reinforce negative opinions about her. Furthermore, these ads caused two polar opposite views to develop within the electorate, those who hated her and those who loved her.

Conclusion:

Campaign finance reform splits into different branches arguing for two separate ways of regulating money in the electoral system. The first branch argues campaign finance laws (limits on expenditures and contributions) is a form of free speech, thus campaign finance laws should be relaxed to guarantee a voter's ability to voice their political opinion. Simply put, campaign finance laws limiting the amount of money a person can donate restricts the person's political opinion, thereby restricting a person's First Amendment right. Furthermore, campaign finance laws should maximize free speech by lowering donation caps instead of curtailing it. Another branch of campaign finance reform argues laws that restrict donations keep money and votes separate. Money is accumulated in the economic sphere, votes in the electoral sphere and campaign finance laws keep these two spheres separate. Campaign finance reform became a question of equality; preserving the equality of citizens on one hand and the inequality of wealth on the other. Unequal resources cause inequalities, thus there's a need for campaign finance laws to equalize the playing field between candidates, voters, and interest groups. This inequality splits into reforms that focus on the candidate and reforms that focus on the electorate. Reforms that focus on the candidate maximize the candidate's chance of winning by increasing donation caps, translating to more votes. Reforms that focus on the public rely on a campaign finance scandal to inform the public of a wrongdoing thereby, fueling policymakers to pass reforms to benefit the electorate. Congress tried to pass reforms such as, the Bipartisan Campaign Reform Act of 2002, but these reforms are not always in the public's interest. The Bipartisan Campaign

Reform Act of 2002 (BCRA) banned the use of soft money, but raised individual spending limits and relaxing aggregate spending limits, allowing more money to enter the electoral system.

Likewise, in the 2008 presidential election the Bipartisan Campaign Reform Act of 2002 governed the relationship between candidates and interest groups so donations were capped for individuals and interest groups. Furthermore, the two candidates running, Barack Obama and John McCain, discouraged outside interest groups from funding their campaigns. Barack Obama relied on private donations, mostly through individuals donating in small amounts throughout his campaign. Whereas, John McCain relied on the public finance system to run his campaign. Barack Obama used the private donations to fund his political ads, giving him the control of the content and messaging of the ads. Interest groups in 2008 focused their attention and money on Congressional races. The 2008 presidential election was unique not only because Barack Obama relied on private donations, but because the electorate was divided along racial, generational and policy lines.

By the same token, the electorate grew increasingly democratic, racially diverse and younger. Barack Obama appealed to minority voters, women and young voters. African Americans and Hispanics were voting at higher rates and voting primarily Democratic. Moreover, voters were younger and made up a higher share of the population eligible to vote in 2008. Furthermore, Obama campaigned on fixing health care, fixing the economy, and pulling troops out of Iraq. Whereas, McCain supported maintaining former President George W. Bush's policies. Meanwhile, older and white voters supported McCain. This split in the electorate caused polarization in the 2008 presidential election.

The older, more conservative voting population who voted for John McCain in 2008, would vote for Donald Trump in the 2016 presidential election. Occurring after the *Citizens*

United decision, the 2016 presidential election demonstrated the effects of unlimited sums of money entering the electoral system and used for media advertisements that explicitly advocate for the defeat of a candidate. The 2016 presidential election pitted two controversial candidates. Donald Trump used racially, ethnically, anti – immigrant charged comments, which fueled his campaign. Meanwhile, Hillary Clinton’s e mail scandal, Benghazi, FBI investigations, and her husband’s affair made her a controversial candidate. Pro – Trump PACs, aired ads contrasting Hillary’s character with Trump’s character. One of those ads produced by the Great America PAC critiqued Hilary’s handling of the Benghazi attack, while at the same time, portraying Trump as a candidate who will protect American lives. Furthermore, Trump appealed to the emotions of fear and anger through his campaign ads and the ads produced by the PAC closely aligned with him, The Great America PAC.

Likewise, Trump’s campaign ran ads showing the difference between his policies on immigration and her policies on immigration. Trump’s campaign ran one ad in particular called, “Immigration,” which contrasted Trump’s America with Hillary’s America. The ad used positive language to describe how Trump would keep Americans safe and used negative language to describe how Clinton’s America would be a repeat of Obama. The amount of money pouring into the ads, plus repeat message exposure of the ads, pulled the electorate to polar opposites. By examining the theoretical frameworks, the *Citizens United* decision, and the two presidential elections, this essay sought to explain why campaign finance laws have been adopted only to be struck down by the Supreme Court. Furthermore, when the Supreme Court does strike down campaign finance laws, they are only opening the door for more division within the American electorate.

The *Citizens United* decision opened the door for groups classified under the IRS tax code as, “501 c (4) social welfare organizations.” These social welfare organizations have a limit on how much money they spend for political purposes. However, many of these social welfare organizations go over that amount and donate secretly to political action committees and super political action committees. These social welfare organizations are called dark money groups. Moreover, when they donate secretly to political action committees and super political action committees to fund issue advertisements, this is called dark money spending. The third and final chapter of this thesis explains dark money, dark money spending, traces the money dark money groups spending on issue advertisements, and shows why these negative and deceptive advertising by dark money groups reduces transparency during an election cycle.

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The Tornado Effect of Campaign Finance Laws, Dark Money Groups, and The Electoral Process

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Abstract

Campaign finance reforms were passed and enacted by Congress to limit the amount of money entering the electoral system from donors (individuals, and later corporations), interest groups (PACs), and the candidates own personal funds. However, each time Congress passed campaign finance laws, the Supreme Court struck them down on the basis they violated the First Amendment (freedom of speech). The most recent example where the Supreme Court struck down campaign finance expenditure laws was the 2010 case, *Citizens United V. Federal Election Commission*. The Supreme Court ruled in *Citizens United V. Federal Election Commission* corporations, unions and interest groups use their general treasury to fund media advertisements that explicitly advocate for one candidate over another, and these advertisements can appear on tv up and till Election Day. Likewise, *Citizens United* ruled money is a form of free political speech, therefore; corporations, labor unions, and interest groups can use money to express their opinion for a candidate of their choice. This allowed organizations or interest groups who call themselves, “501 c (4)’s social welfare organizations,” to form and participate in the political process. These 501 c (4)’s can only spend a certain amount of their expenditures on political activity. However, many of these social welfare organizations donate over the amount by hiding how they receive donations and to whom they are giving the donations to. This is called dark money spending. This essay explores, “How does the proliferation of dark money groups impact transparency of political information during an election cycle?” I will examine a number of theoretical frameworks explaining how curtailed campaign finance permitted dark money groups to reduce transparency of political information, thereby causing negative and deceptive political advertisements to increase during an election cycle. This essay explores the impact dark money

groups have on the electoral process, specifically on negative media advertisements. This essay uses two case studies; the 2012 presidential election and the 2018 Midterm Election to demonstrate how dark money groups have influenced the electoral process. The 2012 presidential election demonstrates conservative dark money groups outspent liberal dark money groups in an attempt to sway the electorate to vote against Barack Obama's health care plan. Although Obama won the 2012 presidential election, dark money groups took full advantage of the campaign finance laws allowing them to spend in unlimited sums to elect their preferred candidate into office. The second case study this essay utilizes is the 2018 Midterm Elections, specifically in Arizona. The 2018 Midterm Elections saw liberal dark money groups outspend conservative dark money groups, and dark money spending increase dramatically on negative and deceptive media advertisements since *Citizens United V. Federal Election Commission*. *Citizens United* permitted money in unlimited sums to fund these negative and deceptive ads by dark money groups, thereby reducing transparency of political information during an election cycle.

Introduction:

In 2010, the Supreme Court shined a dark cloud over campaign finance laws watering down transparency of political information during an election cycle. In 2010, the Supreme Court heard the case *Citizens United V. Federal Election Commission*. *Citizens United V. Federal Election Commission*, permitted money to flow from a corporation's general treasury fund to directly elect their preferred candidate into office. This allowed corporations with money to wield influence over public opinion by pushing their preferred candidate's issues, while at the same time, influence the electoral process. Hence, giving donors unlimited access to the candidate's campaign, thereby, excluding non - affluent voters from the political process. Likewise, the donors themselves did not have to disclose how or from whom *they* were receiving funds. This created a relationship where transparency between the donor, where and how the donor was receiving funds, the candidate and the voter was almost non – existent. This begs the question, “How does the proliferation of dark money groups impact transparency of political information during an election cycle?”

I will answer this question by examining theoretical frameworks that explain why campaign finance reforms are passed in an attempt to distribute resources effectively and ensure the electorate has a voice in the political process. These theoretical frameworks will further the hypothesis that curtailed campaign finance laws permitted dark money groups to reduce transparency of political information, causing negative and deceptive political advertisements to increase during an election cycle. On that note, campaign finance laws preserve and protect the economic sphere and the political sphere. Campaign finance laws ensure money stays in the economic sphere, votes in the political sphere. Moreover, campaign finance laws regulating

speech keep these spheres separate, while at the same time preserving the act of holding elections. The kernel of campaign finance reform is a question about equality, equality of citizens and the inequality of resources in the political system. Ideally, campaign finance reform balances wealth inequalities. However, campaign finance laws have been altered to favor the candidate's interest (wealth) over the public interests. Campaign finance reforms under *Buckley V. Valeo*, had unintended consequences of allowing *more* money to enter the electoral system, not less. Campaign finance laws were further scaled back when Congress passed the Bipartisan Campaign Reform Act of 2002. The Bipartisan Campaign Reform Act of 2002 increased the total amount of times a donor can give during an election cycle. This allowed wealthy donors to contribute multiple times during an election cycle, therefore; shrinking the pool of donors.

This slow curtailment of campaign finance laws by the Supreme Court culminated with the conical case, *Citizens United V. Federal Election Commission*. *Citizens United V. Federal Election Commission* allowed corporations, unions and interest groups to spend unlimited sums of money from their general treasury on media advertisements that directly advocate for one candidate over another. The Supreme Court effectively stated political spending by corporations/ unions, and interest groups is a form of free speech and corporate entities have the same freedom of speech rights as individuals. This allowed wealthy corporations, unions and interest groups to find new ways to donate money. One of these new ways is through dark money. Dark money is donated by social welfare organizations (501 c (4)) who cannot spend a majority of their expenditures on political activities and are not required to disclose the identities of their donors. These dark money groups through political action committees and super political action committees can run tv ads to elect their preferred candidate into office. This essay explores two election cycles where dark money spending reached an all-time high. During the 2012

presidential election, dark money spending skyrocketed with the aim to persuade the electorate that Barack Obama's health care plan increases taxes. During the 2012 presidential election one of the main conservative dark money groups operating was, "Americans for Prosperity."

Americans for Prosperity launched an ad campaign targeting Obama's health care plan, the ad was deceptive and contained misinformation. Obama won in 2012, but this election opened the flood gates for dark money groups to increase their spending in the 2018 Midterm Election. The 2018 Midterm Election saw the reverse, with liberal groups outspending conservative ones. The 2018 Midterm Election in Arizona saw the liberal group, "Majority Forward," blitz the airwaves to elect Kyrsten Sinema over Martha McSally. Kyrsten Sinema won, Martha McSally lost, showing dark money groups were able to influence the election in favor of the Democratic candidate.

Literature Review:

Campaign finance reform has evolved into a question about equality of resources and how those resources should be used to effectively communicate the candidate's message, while at the same time, ensuring voters are receiving transparent political information during an election cycle. The court case campaign finance scholars use to come to a theoretical understanding of why campaign finance reform is complex is *Buckley V. Valeo*. *Buckley V. Valeo* demonstrates the struggle between equality of resources (money) in the electoral sphere and transparency of political information provided to voters during an election cycle.

Campaign finance laws ensure citizens have a voice in the political process. Moreover, their voice in the political process is the ability to vote, regardless of how much wealth they accumulate in society. According to Stohler, the elite model of democracy explains how campaign finance reforms keep money and votes separate in the electoral system. The elite

model allows restrictions on speech if that speech impedes competition during an election cycle.²¹⁶ The elite model views certain restrictions on speech as, “institutionally bound,” in other words, speech receives protection consistent with the institution it’s a part of.²¹⁷ The elite model argues this approach, the, “institutionally bound approach,” compartmentalizes resources into different spheres. In campaign finance law, the two spheres are money and votes. These spheres cannot intersect or inadvertently influence each other. Since votes provide little currency in other spheres of life, no citizen occupying space in once sphere can be, “undercut,” by standing in another sphere.²¹⁸ If the electoral system is structured in such a way permitting some voters to have greater influence over others, candidates will cater to those who have greater wealth.²¹⁹ The elite model of democracy argues corporate involvement in elections allows resources in the economic sphere influence votes in the electoral sphere.²²⁰ Likewise, allowing those two spheres to collide undermines the position of other interests, such as non-affluent voters. Furthermore, campaign finance laws regulating expenditures preserves the equality of the political process.

The kernel of campaign finance reform is a question of equality; equality of citizens and the unequal influence money has in the electoral system. According to Gottlieb, equality becomes the explanation why campaign finance reforms are necessary in the electoral system. Gottlieb calls this the input model.²²¹ The input model seeks to explain campaign finance reform

²¹⁶ Stephan Stohler, “One Person, One Vote, One Dollar? Campaign Finance, Elections, and Elite Democratic Theory,” *Journal of Constitutional Law*, University of Pennsylvania Law School, Volume 12:4, pg. 1267, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1189&context=jcl>

²¹⁷ Stephan Stohler, “One Person, One Vote, One Dollar? Campaign Finance, Elections, and Elite Democratic Theory,” *Journal of Constitutional Law*, University of Pennsylvania Law School, Volume 12:4, pg. 1267, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1189&context=jcl>

²¹⁸ Ibid, pg. 1266 – 1267

²¹⁹ Ibid, pg. 1274.

²²⁰ Ibid, pg. 1274 – 1275.

²²¹ Stephan Gottlieb, “The Dilemma of Election Campaign Finance Reform,” *Hofstra Law Review*, Volume 18, Issue 2, 1989, pg. 232, <https://scholarlycommons.law.hofstra.edu/hlr/vol18/iss2/>

as a balancing act between equality of citizens and inequality of political influence.²²² Unequal amounts of resources (money) manipulates the political system to favor the wealthy. As money enters the system, the need for campaign finance laws to equalize the playing field between candidates, donors and voters increases.²²³ Moreover, the inequality of political influence, is the, “undue,” influence money as in the political system.²²⁴ This is where the paradox lies. Money allows candidates to cater to wealthy donors who contribute the most, but money is also used as a vehicle to communicate the candidate’s platform to voters. However, money is also regulated at the pursuit of, “competing public interests.”²²⁵ Money is used for negative and positive outputs. Likewise, campaign finance reforms are needed to balance the equality of citizens and inequality of resources in the system.

If balanced incorrectly, the competing interests of the candidate and donor will outweigh the competing interest of the public. According to Overton, campaign finance reforms that put the candidates interests over the electorates interests fall into two approaches. The first approach is called the class blind approach.²²⁶ The class blind approach stresses the private interest of the candidate over the public interest of curbing massive amounts of money in the political system.²²⁷ Using the class blind approach, politicians seek political power and capitalize on wealth disparities to gain influence in the political system.²²⁸ This approach rejects campaign finance reform and argues wealthy individuals should not experience discrimination *just because*

²²² Ibid, pg. 232.

²²³ Ibid, pg. 232.

²²⁴ Ibid, pg. 233.

²²⁵ Ibid, pg. 234.

²²⁶ Spencer Overton, “The Donor Class: Campaign Finance, Democracy and Participation,” *University of Pennsylvania Law Review*, Volume 152, Issue 1,(2000), pg. 77 – 78, https://scholarship.law.upenn.edu/penn_law_review/vol153/iss1/4

²²⁷ Spencer Overton, “The Donor Class: Campaign Finance, Democracy and Participation,” *University of Pennsylvania Law Review*, Volume 152, Issue 1, (2000), pg. 78, https://scholarship.law.upenn.edu/penn_law_review/vol153/iss1/4

²²⁸ Ibid, pg. 79.

they have the means to donate.²²⁹ Hence, non – affluent individuals do not face discrimination *because* they do not have the means, so why should wealthy individuals endure discrimination?²³⁰

Completely opposite the class blind approach is the class sensitive approach. The class sensitive approach argues campaign finance laws increases political participation amongst non – affluent voters.²³¹ Large campaign contributions from a small concentrated group of wealthy donors threatens democratic participation.²³² Campaign finance laws correct the disparities in political participation, caused by massive disparities in wealth distribution in the economic system.²³³ Moreover, contribution limits prevent the, “undue,” influence of money in the electoral system.²³⁴ The class sensitive approach acknowledges non affluent voters do not have access to large sums of money to donate to candidates, thus campaign regulation is necessary to overcome this problem.

Consequently, campaign finance laws have unintended consequences that actually increase money in the electoral system, rather than regulate it. Restrictions on individual contributions and political action committee spending was the center of the Supreme Court case, *Buckley V. Valeo*. Briefly, *Buckley V. Valeo* ruled limitations on expenditures by candidates/ committees, limitations on individual spending of \$1,000 or more per individual/ group, limitations on expenditures by candidates from their personal fund, and caps on aggregate expenditures were declared unconstitutional because they violated an individual’s freedom of

²²⁹ Ibid, pg. 80.

²³⁰ Ibid, pg. 80.

²³¹ Ibid, pg. 80 – 81.

²³² Ibid, pg. 80 – 81.

²³³ Ibid, pg. 84.

²³⁴ Ibid, pg. 84.

speech during an election cycle.²³⁵ Instead of curbing the amount of money entering the electoral system, Sunstein argued *Buckley V. Valeo* diverted donations from hard money which is regulated by the Federal Election Commission to soft money, which is not regulated by the Federal Election Commission.²³⁶

Sunstein argued campaign finance laws have unintended consequences that result in more money entering the electoral system, causing inequalities for non-incumbent candidates and voters alike. The first unintended consequence is campaign finance laws allow incumbents to accumulate money quickly from donors the incumbent will likely stay close to.²³⁷ This leaves the challenger with little room to win. Second, limits on individual spending will funnel money away from individual donors to political action committees.²³⁸ Resources will shift to political action committees because they are loosely regulated.²³⁹ Third, restrictions on hard money donations will cause an increase in the use of soft money.²⁴⁰ Soft money is not regulated by the Federal Election Commission, allowing money to enter the electoral system through another channel.

Fourth, restrictions on political action committees encourage donors to influence a specific lawmaker with the clear intention of receiving something in return (*quid pro quo*).²⁴¹ Fifth, restrictions on political action committees hurt organized labor and minority candidates who depend on political action committees to campaign for them. Political action committee (PAC) limitations push minority and organized labor out of the electoral sphere.²⁴² Hence,

²³⁵ Richard L. Hanson, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections* Chapter 1: The Corruption Distortion, (New Haven and London, Yale University Press, 2016), pg. 23 – 24

²³⁶ Cass Sunstein, “Political Equality and Unintended Consequences,” *Columbia Law Review*, Volume 94, 1390, (1994), pg. 1400 – 1401, https://chicagounbound.uchicago.edu/journal_articles/8507/

²³⁷ Cass Sunstein, “Political Equality and Unintended Consequences,” *Columbia Law Review*, Volume 94, 1390, (1994), pg. 1400 – 1401, https://chicagounbound.uchicago.edu/journal_articles/8507/

²³⁸ *Ibid*, pg. 1403 – 1404.

²³⁹ *Ibid*, pg. 1403 – 1404.

²⁴⁰ *Ibid*, pg. 1407 – 1409.

²⁴¹ *Ibid*, pg. 1409.

²⁴² *Ibid*, pg. 1409 – 1410.

wealthy and white candidates run for office garnering contributions from wealthy and white donors. Furthermore, the donors and candidates do not represent the majority of the electorate.

Finally, restrictions on political action committees increase, “secret gifts,” i.e., ‘dark money.’ Political Action Committees offer candidates soft money, thereby becoming an assembly line of money from an unidentified source.²⁴³ Laws restricting political action committees makes it harder to identify the source of money without decreasing funding from special interests.²⁴⁴

When campaign finance laws permit more money to flow into the electoral system for political communication, voters learn more about one candidate than they do the other. According to Blasi, if elections are driven by fundraising, certain kinds of skills, priorities and attitudes are over represented.²⁴⁵ When campaign finance reforms favor more money entering the system, financial constituencies compete for geographic constituencies. Hence, elected officials respond to their donors and become unresponsive to their constituents who they represent.²⁴⁶ Campaign finance reforms ensure candidates respond to constituents, not their donors. When candidates solicit the same wealthy donors and win elected office, they create an open line of communication between themselves and the donors.²⁴⁷ This open line of communication causes the candidate to cater to their financial constituencies.²⁴⁸ Likewise, campaign finance laws curb the exchange between the candidate’s donors and the constituents they serve.²⁴⁹ Blasi argued the time a candidate must spend to fundraise evolved from the, “legislative patchwork,” created after

²⁴³ Ibid, pg. 1410.

²⁴⁴ Ibid, pg. 1410.

²⁴⁵ Vincent A. Blasi, “Free Speech and the Widening Gyre of Fund-Raising: Why Campaign Spending Limits May Not Violate the First Amendment after All Symposium on Campaign Finance Reform,” *Columbia Law School*, Volume 94, 1281, (1994), pg. 1302, https://scholarship.law.columbia.edu/faculty_scholarship/10

²⁴⁶ Ibid, pg. 1300 – 1302.

²⁴⁷ Ibid, pg. 1304.

²⁴⁸ Ibid, pg. 1304.

²⁴⁹ Ibid, pg. 1305.

Buckley V. Valeo.²⁵⁰ *Buckley V. Valeo* set limits on hard money donations, but left soft money alone.²⁵¹ *Buckley V. Valeo* also banned candidates from using their personal funds to fund their campaigns. This created a gap between candidates who used their personal funds to get ahead and candidates who could not use their personal funds.²⁵² Moreover, campaign finance laws permitting the use of a candidate's personal funds close the gap and promote financial equality.²⁵³ Blasi argued spending limits should apply universally, thus reducing the chance of wealth disparities amongst candidates.²⁵⁴

Congress in an attempt to curb the inequality of large sums of money entering the electoral system, passed the Bipartisan Campaign Reform Act of 2002 (BCRA). According to Sebold and Dowdle, the BCRA reduced wealth inequalities by banning the use of soft money. The BCRA banned soft money, but increased the legal limit a contributor can give to a candidate during an election cycle.²⁵⁵ The legal limit a contributor can give was increased from \$1,000 to \$2,000.²⁵⁶ Furthermore, the Supreme Court increased the aggregate spending limit because these limits restricted the ability for contributors to donate as many times as they wanted to voice their opinion for a candidate.²⁵⁷ With the legal contribution limit increased and the aggregate spending limit increased, candidates had the perfect opportunity to cultivate a, “contributor pond.”²⁵⁸ A contributor pond allows candidates to solicit the same wealthy donor multiple times during an

²⁵⁰ Ibid, pg. 1306.

²⁵¹ Ibid, pg. 1312.

²⁵² Ibid, pg. 1314 – 1315.

²⁵³ Ibid, pg. 1316.

²⁵⁴ Ibid, pg. 1316.

²⁵⁵ Karen Sebold and Andrew J. Dowdle, “Can “Letting in Sunlight” Lead to Accidental Sunburn? The Unintended Consequences of Campaign Finance Reform on the Financing of U.S. Presidential Candidates,” *Election Law Journal*, Volume 17, Number 3 (2018), pg. 210 – 211, DOI: 10.1089/elj.2018.0517, <https://www.liebertpub-com.proxy1.library.jhu.edu/doi/pdf/10.1089/elj.2018.0517>

²⁵⁶ Ibid, pg. 210 – 211.

²⁵⁷ Ibid, pg. 211.

²⁵⁸ Ibid, pg. 212.

election cycle.²⁵⁹ When candidates cater to wealthy donors, their voice is, “amplified by money,” thus allowing them to voice their opinions.²⁶⁰ This ‘contributor pond,’ has allowed wealthy donors to discourage political participation by non – affluent voters, causing deep wealth disparities to develop in the political process.

The Catalyst: Citizens United V. Federal Election Commission:

The catalyst that deteriorated campaign finance laws and permitted even more money to flow into the electoral sphere was the 2010 Supreme Court case, *Citizens United V. Federal Election Commission*. Citizens United, a nonprofit Conservative corporation, released a film called, *Hillary The Movie*. *The Movie* was released to the public prior to the 2008 primary election between Barack Obama and Hillary Clinton.²⁶¹ *Hillary the Movie* was a documentary criticizing Hillary Clinton’s time as a Senator before she made ran for president in 2008.²⁶² Citizens United decided to release the film in theaters, and make the film available for free to the public via video on – demand services.²⁶³ However, Citizens United paid to broadcast the film via video on – demand services. Citizens United paid Comcast \$1 million to broadcast the film, directly, “from [their] political action committee funded by donations from individuals.”²⁶⁴ Consequently, Citizens United decided to release their film thirty days prior to the primary election violating federal election law.

The Federal Election Commission banned the release of the film because Citizens United violated the Bipartisan Campaign Reform Act of 2002 (BCRA) electioneering clause. The

²⁵⁹ Ibid, pg. 212 – 213.

²⁶⁰ Ibid, pg. 212.

²⁶¹ Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 651 – 652.

²⁶² Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 651 – 652

²⁶³ Ibid, pg. 651 – 652

²⁶⁴ Richard L. Hanson, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections Chapter 5: Censorship*, (New Haven and London, Yale University Press, 2016), pg. 107.

Bipartisan Campaign Reform Act's electioneering clause, "prohibits corporations from using their general treasury funds for "electioneering communications."²⁶⁵ Electioneering communication is considered, "any broadcast, cable, or satellite communication that refers to a clearly identified federal candidate made within 60 days of a general election or 30 days of a primary election."²⁶⁶ Electioneering communication is another way of saying tv advertisements explicitly advocating for one candidate over another and is funded primarily through soft money.

Once Citizens United realized their film was banned, they sued the FEC. The Supreme Court heard the case in 2010, hence *Citizens United V. Federal Election Commission*. When the Supreme Court heard the case, they agreed with Citizens United. The Court argued, "speech is essential," during an election because voters should acquire information from multiple sources to make an informed decision."²⁶⁷ The Court said, banning the movie, "effectively restricts the number of issues discussed, the quantity of expression, and the size of the audience reached."²⁶⁸ In a democracy, speech must be protected because it holds elected officials accountable to the people they serve.²⁶⁹ The Court agreed, the First Amendment permits more speech, not less. Moreover, the Court felt Citizens United was providing the public with, "insightful information about a candidate," or, some citizens might fight this, "intrusive." This decision is not for the government to make, it's for the voters to make.²⁷⁰ Voters must be free to obtain information from a variety of sources before they cast their ballot and this is crucial during an election cycle.

²⁶⁵ L., Paige Whitaker, Erika K. Lunder, Jack Maskell, and Michael Seitzinger, "Legislative Options After Citizens United V. FEC: Constitutional and Legal Issues," Congressional Research Service Issue Brief, March 2010, <https://fas.org/sgp/crs/misc/R41096.pdf>, Summary Page, <https://fas.org/sgp/crs/misc/R41096.pdf>

²⁶⁶ Ibid, Summary Page, <https://fas.org/sgp/crs/misc/R41096.pdf>

²⁶⁷ Cory Brettschneider, *Constitutional Law and American Democracy: Chapter 5 Free Speech*, New York, Wolster Kluwer Law and Business, (2012), pg. 652 – 653.

²⁶⁸ Ibid, pg. 652.

²⁶⁹ Ibid, pg. 652.

²⁷⁰ Ibid, pg. 655.

The Supreme Court stated Citizens United was simply voicing their opinion against Hillary Clinton and they have a right to do so. The First Amendment protects all kinds of speech, including political speech which in the Court's view includes money. The Court defended a corporation's right to use money as a form of political speech by stating, "The First Amendment protects political speech and disclosure permits citizens and shareholders to react to the speech of the corporate entities in a proper way."²⁷¹ Simply put, a corporation, has the same freedom of speech rights as individuals do under the First Amendment. With this ruling, *Citizens United* permitted money in unlimited sums to flow from a corporation's general treasury fund to elect their preferred candidate into office by running advertisements on tv, thereby influencing the public's opinion. Corporations and interest groups can do this because their donations are protected and considered a form of free speech.

Methodology:

This essay is a comparative case study of two election cycles; both exhibiting a significant increase in dark money spending and a unique pattern of spending. This essay compares the 2012 presidential election where conservative dark groups outspent liberal dark groups and the 2018 Midterm Election in Arizona, where liberal groups outspent conservative groups. This comparative case study will prove as a result of curtailed campaign finance laws, dark money groups reduced transparency of political information, thereby causing negative and deceptive political advertisements to increase during an election cycle. The 2012 presidential election saw conservative dark money groups increase their spending dramatically on advertisements, one in particular, that contained misleading information regarding Barack Obama's push for health care reform. Although Obama won in 2012, dark money groups

²⁷¹ Ibid, pg. 655.

continued to donate money and push candidates in the 2018 Midterm Election in Arizona. In the 2018 Midterm Elections, liberal groups outspent conservative groups showing dark money spending does not discriminate based on political ideology. Instead, dark money groups run negative ads and these ads are primarily deceptive. When outside interest groups run negative ads, the link between the candidate and the voter disappears, thus transparency decreases and the candidate escapes negative evaluations from voters.

The two dark money groups this essay uses self – report their political spending to the Federal Election Commission. Keep in mind, dark money groups do not disclose their donors to the FEC, so, some of the data are estimates. This essay utilizes data from Open Secrets: Center for Responsive Politics who compiles contribution and expenditure reports from the FEC. The FEC data (retrieved from Open Secrets), labels expenditures from Americans for Prosperity as, “outside spending,” showing how much they spent against Democrats in 2012. Moving to another tab, “targeted candidates,” shows how much money Americans for Prosperity spent against Barack Obama. This this essay uses the book *Dark Money* by Jane Mayer detailing Americans for Prosperity’s money trail and their push to oppose Obama Care.

This format follows for Majority Forward, the Democratic dark money group operating during the 2018 Midterm Election in Arizona. Likewise, the FEC labels expenditures as, “outside spending.” showing how much they spent against former Republican Senator Martha McSally of Arizona. Similarly, Majority Forward has a tab called, “targeted candidates,” showing how much money Majority Forward spent to elect the Democrat Kyrsten Sinema over Martha McSally. Majority Forward ran attack ads against McSally’s goal to end the ACA, showing dark money groups will use negative ads to persuade voters, regardless of the cost to the electorate.

This essay uses data from a variety of think tanks doing academic research in the field of dark money and its impact on transparency. One of the think tanks is Issue One. Issue One compiles reports on which dark money groups report their expenditures and how many donors gave to these groups (no names of donors). Annenberg Public Policy Center compiled a donor profile and summary of Americans for Prosperity. Finally, the Sunlight Foundation compiles data on the candidates who benefited the most from dark money spending.

Due to the nature of dark money spending (non-disclosure of donors), this essay utilizes news outlets including Politico, Vox.com, Time, and Arizona Central to gain current information dark money spending on political ads and what policy issues were in the ad. This essay also utilizes two academic journal articles showing how negative political ads directly affects accountability and transparency between the interest group, candidate and electorate.

The Dark Money Problem:

Citizens United changed the way candidates solicit donations from donors, and how donors disclose where they were receiving funds. Contributors have a variety of ways they can donate to support a candidate. First, a contributor (candidate committee, political party or political action committee (PAC)) can give a “hard money,” donation where there are contribution limits, the donor’s name and amount must be disclosed to the Federal Election Commission, and the donor can organize to help elect a candidate provided the donor does not contribute *directly* to the candidate.²⁷² Second, a contributor can give a, “soft money,” donation. Soft money is considered donations from individuals, outside groups like, corporations, interest

²⁷² Open Secrets: Center for Responsive Politics, “Dark Money Basics,” last updated June 3, 2021, <https://www.opensecrets.org/dark-money/basics>

groups and unions. These donations can be given to the candidate for, “direct political activities,” like issue advertisements, get out the vote drives, phone banking, and canvassing.²⁷³

By the same token, *some* outside groups are required to disclose their donors, but some do not have to and this is where the complexity lies. The outside groups that do not have to disclose their donors are called, “dark money groups.” These dark money groups are primarily 501 c (4)’s which are social welfare organizations and can engage in political activity to an extent.²⁷⁴ However, 501 c (4)’s may not make political activities their primary purpose of their organization. However, this is not enforced. 501 c (4) social welfare organizations may devote 49.9% of their expenditures to political activities and these expenditures are not reported to the IRS.²⁷⁵ Realistically, these dark money groups spend way more money on political activities than 49.9%.

Dark money groups can influence elections in a few ways; they can buy ads themselves or they can give money to a super political action committee (super PAC) who will buy the ad on behalf of the dark money group. As a result of the *Citizens United*, super PACs can accept donations in unlimited sums from interest groups, corporations, and individuals.²⁷⁶ Super PACs must disclose their donors, but many do not have to provide information regarding who supports the Super PAC. Both Super PACs and 501c (4) organizations are not allowed to contribute

²⁷³ Open Secrets: Center for Responsive Politics, “Dark Money Basics,” last updated June 3, 2021, <https://www.opensecrets.org/dark-money/basics>

²⁷⁴ Open Secrets: Center for Responsive Politics, “Dark Money Basics,” last updated June 3, 2021, <https://www.opensecrets.org/dark-money/basics>

²⁷⁵ Open Secrets: Center for Responsive Politics, “Dark Money Basics,” last updated June 3, 2021, <https://www.opensecrets.org/dark-money/basics>

²⁷⁶ Michael Beckel, “What is Dark Money?”, How Money From Hidden Sources Influences Elections,” Issue One Dark Money Explainer, 2019, <https://www.issueone.org/wp-content/uploads/2019/02/Dark-Money-Explainer-2019.pdf>

money directly to candidates. Super PACs are exempt from fundraising limits because they cannot donate directly to the candidate and must disclose donors.²⁷⁷

The problem then becomes dark money groups can buy ads, run those ads up and till Election Day, and voters do not know who is running the ad. Moreover, these donors tend to be wealthy and donate in large sums to elect their preferred candidate. However, these wealthy donors do not want to disclose their name, so they donate to dark money groups who will funnel their donation to the candidate of their choice.²⁷⁸ Moreover, it becomes an issue of transparency. Voters cannot hold candidates accountable to their message and actions, thus the electorate does not have a fair chance to make an informed decision.²⁷⁹ The problem of dark money got worse after *Citizens United* during the 2012 presidential election between Barack Obama and Mitt Romney.

2012 Presidential Election:

The 2012 Presidential Election between Barak Obama and Mitt Romney marked the highest amount of dark money spending after *Citizens United*. According to Open Secrets: Center for Responsive Politics, dark money spending accounted for \$308.7 million, with conservatives making up 85% of dark money expenditures.²⁸⁰ During the 2012 Presidential Election, conservatives outspent liberals at a rate of 7 to 1 on negative advertising.²⁸¹ Conservatives spent around \$55 million attacking Obama, with positive Obama ads and negative

²⁷⁷ Ibid, <https://www.issueone.org/wp-content/uploads/2019/02/Dark-Money-Explainer-2019.pdf>

²⁷⁸ Andrew Prokop, "The Citizens United era of money in politics, explained," Vox.com July 15, 2015, <https://www.vox.com/2015/2/9/18088962/super-pacs-and-dark-money>

²⁷⁹ Ibid, <https://www.vox.com/2015/2/9/18088962/super-pacs-and-dark-money>

²⁸⁰ Open Secrets: Center for Responsive Politics, "Follow the Shadow of Dark Money," Open Secrets Center for Responsive Politics, InfoGraphic, 2014, <https://www.opensecrets.org/dark-money/shadow-infographic>

²⁸¹ Keenan Steiner, "Who benefited from dark money in the 2012 election," Sunlight Foundation, December 5, 2012, <https://sunlightfoundation.com/2012/12/05/who-benefited-most-from-dark-money-2012/>

Mitt Romney ad spending around \$12 million.²⁸² These dark money groups worked behind the scenes to oppose Barack Obama's health care plan.

The hot button issue in 2012 was the Affordable Health Care Act. The Affordable Health Care Act expanded health care coverage to those above the poverty level, but do not qualify for Medicaid, non – pregnant adults, non – disabled adults, those with a preexisting health conditions and those living in states that did not expand Medicaid.²⁸³ The ACA became a contested piece of legislation from day one.

Prior to the 2012 Presidential Election in March, the Supreme Court heard the case *National Federation of Independent Business, et al. V. Kathleen Sebelius, Secretary of Health and Human Services, et al.* which challenged the individual mandate of the ACA. The individual mandate required non – exempt individuals who did not purchase health care through the ACA to pay a tax penalty.²⁸⁴ This individual mandate would start in 2014. The National Federation of Independent Business argued the mandate exceeded Congress's enumerated powers and the Medicaid expansion was, "constitutionally coercive."²⁸⁵ The Supreme Court ruled against the National Federation of Independent Business stating, the individual mandate did not violate Congress's power to tax. Furthermore, spending on Medicaid expansion did not violate the Constitution; thus, the law was upheld and the ACA would move forward.²⁸⁶

This did not sit well with Republicans who opposed it. With *Citizens United* in the background of campaign finance legislation, dark money groups got the green light to raise and

²⁸² Ibid, <https://sunlightfoundation.com/2012/12/05/who-benefited-most-from-dark-money-2012/>

²⁸³ The Kaiser Family Foundation, "Focus on Health Reform, A Guide to the Supreme Court's Decision on the ACA's Medicaid Expansion," Kaiser Family Foundation, August 2012, <https://www.kff.org/wp-content/uploads/2013/01/8347.pdf>

²⁸⁴ "National Federation of Independent Business v. Sebelius." Oyez. Accessed June 5, 2021. <https://www.oyez.org/cases/2011/11-393>

²⁸⁵ Ibid, <https://www.oyez.org/cases/2011/11-393>

²⁸⁶ Ibid, <https://www.oyez.org/cases/2011/11-393>

spend money, “without impunity,”... “both the legal and political stigma lifted.”²⁸⁷ The 2012 Presidential Election saw an exponential increase in dark money spending, these are interest groups that do not disclose their donors to the public.²⁸⁸ One of the dark money groups who strongly opposed the ACA was a dark money group, “Americans for Prosperity.”

Americans for Prosperity is a conservative social welfare organization classified under the tax code as a 501 c (4) which means they do not have to disclose their donors and only spend 49% of their expenditures on political activity. This is not what occurred. Instead, Americans for Prosperity spent 91.55% of their total revenue on, “independent expenditures,” which includes issue advertisements.²⁸⁹ Americans for Prosperity spent a total of \$36,637,579 on outside spending for the 2012 Election, with \$33,542,051 spent against Obama.²⁹⁰ Americans for Prosperity is one out of fifteen dark money groups that has self – reported to the FEC their political spending. According to Issue One, they have reported around 14% of their political spending to the FEC.²⁹¹ Americans for Prosperity also reported to the FEC 100% of their political spending was on negative issue advertising.²⁹²

Furthermore, Americans for Prosperity launched a television ad campaign showing the consequences of Obama’s health care plan. Americans for Prosperity spent \$9 million on an ad

²⁸⁷ Jane Mayer, *Dark Money: The Hidden History of the Billionaire Behind the Rise of the Radical Right*, Chapter 9: “Money is Speech: The Long Road to Citizens United,” Anchor Books, New York, (2016), pg. 293.

²⁸⁸ Robert Maguire and Viveca Novak, “Shadow Money’s Top 10 Candidates,” October 25, 2012, Open Secrets Center for Responsive Politics, <https://www.opensecrets.org/news/2012/10/shadow-moneys-top-10-candidates/>

²⁸⁹ Open Secrets, “Profile and Summary of Americans for Prosperity,” 2012 Presidential Election, 2012, <https://www.opensecrets.org/orgs/americans-for-prosperity/summary?topnumcycle=2012&topprecipcycle=2012&contribcycle=2012&lobcycle=2020&id=D000024046&outsidencycle=2012>

²⁹⁰ Open Secrets, “Targeted Candidates 2012 Election Cycle, Americans for Prosperity,” Open Secrets Center for Responsive Politics, <https://www.opensecrets.org/outsidespending/recips.php?cmte=Americans+for+Prosperity+++++++&cycle=2012>

²⁹¹ Michael Beckel, “Dark Money Illuminated,” Issue One Report, 2018, pg. 12 – 13, <https://www.issueone.org/wp-content/uploads/2018/09/Dark-Money-Illuminated-Report.pdf>

²⁹² Michael Beckel, “Americans for Prosperity, Dark Money Illuminated,” Issue One Report, 2018, <https://www.issueone.org/dark-money/dark-money-groups-americans-for-prosperity/#Americans-Prosperity-Profile>

campaign targeting Obama Care. Americans for Prosperity called it, “one of the biggest tax increases in history,” and voter must be reminded of, “the disastrous components of this legislation.”²⁹³ Americans for Prosperity held a summit before the vote on the ACA. They had Randy Kendrick speak on surviving a bad knee injury, without being confined to a wheelchair. She became convinced if the United States adopted, “government sponsored health care, she would be dead.”²⁹⁴ Randy Kendrick became the point person for Americans for Prosperity. She began equating the good health care she received in the U.S, with the bad government care if she were living in Canada or the United Kingdom.²⁹⁵ This comparison between U.S. health care as good, and universal health care as bad continued in the ads Americans for Prosperity ran nationally. Negative and deceptive ads by dark money groups, accounted for 20% of American for Prosperity political spending in 2012.²⁹⁶

One of the negative ads Americans for Prosperity ran against Obama in 2012 (the ad’s launch date was March 12, 2010) was called, “Hands off.” The ad features a woman who survived breast cancer because she went to her doctor for a mammogram. She says, “early detection saved my life,” “a government panel tasked with creating guidelines on mammogram screenings stating women over 50 don’t need them,” “If the government takes over health care, these recommendations could become law, causing all kinds of diseases.”²⁹⁷ She compares

²⁹³ Alexander Burns, “Americans for Prosperity launching \$9 million ad campaign on 'Obamacare' ruling,” Burns and Haberman Blog, Politico, June 28, 2012, <https://www.politico.com/blogs/burns-haberman/2012/06/americans-for-prosperity-launching-9-million-ad-campaign-on-obamacare-ruling-127556>

²⁹⁴ Jane Mayer, *Dark Money: The Hidden History of the Billionaire Behind the Rise of the Radical Right*, Chapter 7: “Tea Time,” Anchor Books, New York, (2016), pg. 228 – 229.

²⁹⁵ Ibid, pg. 229.

²⁹⁶ Ibid, <https://www.annenbergpublicpolicycenter.org/high-percent-of-presidential-ad-dollars-of-top-four-501c4s-backed-ads-containing-deception-annenberg-study-finds/>

²⁹⁷ “Hands off,” Americans for Prosperity ad Against Obama health care plan 2010, Americans for Prosperity, Youtube, March 2010 broadcasted on Youtube by Fact Check, <https://www.youtube.com/watch?v=pVX56RoMrMw>

Europe’s breast cancer survival rate of 79% with the United States of 90%. She then says, “what are the odds if the government takes over your health care?”²⁹⁸ The ad is sponsored by handsoffmyhealthcare.com and says paid for by, “Americans for Prosperity.” Americans for Prosperity ran other anti – Obama Care ads, sponsored by various front groups. These front groups included; Center to Protect Patient Rights garnering \$13 million in donations, another \$10 million passed through 501 c (4) organizations to Americans for Prosperity, and Patients United Now responsible for organizing over 300 anti – Obama Care rallies across the United States.²⁹⁹ Dark money creates an environment of, “deliberate misinformation,” about a policy issue.³⁰⁰ The ad misleads voters by skewing the breast cancer survival rates in Europe and the U.S. Note, the breast cancer survival rates hover around 88% and 86 – 85% for the U.S and Europe respectfully.³⁰¹

Although the ad says it’s paid for by Americans for Prosperity, voters do not know who is funding the ad, how much was spent, and how accurate the information is portrayed. Dark money groups “infused massive amounts of money [and] they got disproportionate amount of influence.”³⁰² According to Issue One, twenty - nine donors to Americans for Prosperity accounted for \$154,654,879 of their total revenue.³⁰³ These twenty – nine donors were able to

²⁹⁸ “Hands off,” Americans for Prosperity ad Against Obama health care plan 2010, Americans for Prosperity, Youtube, March 2010 broadcasted on Youtube by Fact Check, <https://www.youtube.com/watch?v=pVX56RoMrMw>

²⁹⁹ Jane Mayer, *Dark Money: The Hidden History of the Billionaire Behind the Rise of the Radical Right*, Chapter 7: “Tea Time,” Anchor Books, New York, (2016), pg. 232 – 233.

³⁰⁰ Jared Miller, “The Cost of Democracy: How Dark Money is Funding Democratic Backsliding,” Henry Leir Institute Advancing Human Security, Tufts University, November 9, 2020, <https://sites.tufts.edu/ihl/the-cost-of-democracy-how-dark-money-is-funding-democratic-backsliding/>

³⁰¹ Concord Global Surveillance of Cancer Survival, World Population Review, 2021, <https://worldpopulationreview.com/country-rankings/cancer-survival-rates-by-country>

³⁰² Jane Mayer, *Dark Money: The Hidden History of the Billionaire Behind the Rise of the Radical Right*, Chapter 7: “Tea Time,” Anchor Books, New York, (2016), pg. 213.

³⁰³ Michael Beckel, “Dark Money Illuminated,” Issue One Report, 2018, pg. 8, <https://www.issueone.org/wp-content/uploads/2018/09/Dark-Money-Illuminated-Report.pdf>

control the public agenda on Obama's health care plan through ads and front groups, while, hiding their true identities.³⁰⁴ Dark money waged a new form of a permanent campaign, "not by politicians, but by people's whose wealth gave them the ability to fund their own private field operations to undermine the outcome of an election."³⁰⁵ Although Obama won despite Americans for Prosperity's efforts, the 2012 Presidential Election was the first storm dark money waged. The second storm of dark money occurred during the 2018 Midterm Elections.

2018 Midterm Elections

The 2018 Midterm Elections demonstrated reverse dark money spending. Meaning, liberal dark money groups outspent conservative dark money groups, with liberal groups accounting for 54% and conservative groups account for 31%.³⁰⁶ The 2018 Midterms saw dark money spending increase to \$405 million, \$100 million more than in 2012.³⁰⁷ Similarly, 50% of political spending in the 2018 Midterm Elections came from dark money groups that do not disclose their donors.³⁰⁸ In 2018, one of the dark money groups donating in record sums was the liberal group, Majority Forward. Majority Forward spent a grand total of \$40,273,232 in the 2018 Midterm Election, and spent \$37 million to unseat Republican candidates running for the

³⁰⁴ Michael Beckel, "Dark Money Illuminated," Issue One Report, 2018, pg. 8 – 9, <https://www.issueone.org/wp-content/uploads/2018/09/Dark-Money-Illuminated-Report.pdf>

³⁰⁵ Jane Mayer, *Dark Money: The Hidden History of the Billionaire Behind the Rise of the Radical Right*, Chapter 7: "Tea Time," Anchor Books, New York, (2016), pg. 207.

³⁰⁶ Michael Beckel, "In 2018 Midterms, Liberal Dark Money Groups Outspent Conservative Ones for First Time Since *Citizens United*," Issue One, January 23, 2019, <https://www.issueone.org/in-2018-midterms-liberal-dark-money-groups-outspent-conservative-counterparts-for-first-time-since-citizens-united/>

³⁰⁷ Michael Beckel, "In 2018 Midterms, Liberal Dark Money Groups Outspent Conservative Ones for First Time Since *Citizens United*," Issue One, January 23, 2019, <https://www.issueone.org/in-2018-midterms-liberal-dark-money-groups-outspent-conservative-counterparts-for-first-time-since-citizens-united/>

³⁰⁸ Michael Beckel, "In 2018 Midterms, Liberal Dark Money Groups Outspent Conservative Ones for First Time Since *Citizens United*," Issue One, January 23, 2019, <https://www.issueone.org/in-2018-midterms-liberal-dark-money-groups-outspent-conservative-counterparts-for-first-time-since-citizens-united/>

Senate.³⁰⁹ One of the candidates Majority Forward fought to unseat was former Arizona Senator Martha McSally. According to Open Secrets Center for Responsive Politics, Majority Forward poured \$6,963,924 to lobby against her and elect the Democratic Senator Kyrsten Sinema.³¹⁰ Majority Forward is affiliated with Senate Majority PAC, which is connected to Senate Majority leader Chuck Schumer.³¹¹ Majority Forward is the only dark money group operating in Arizona during the midterms, using the Democratic group, “Red and Gold,” to run ads against Martha McSally.³¹² Red and Gold is funded by George Soros.³¹³

Majority Forward, specifically Red and Gold, poured money into attack ads to unseat Martha McSally. Majority Forward spent \$40 million in media, around \$38 million in unspecified media buys.³¹⁴ Given Majority Forward is a dark money group, they used an intermediary to buy their ads, that group was Red and Gold. Red and Gold PAC spent \$2.96 million in ads against Martha McSally.³¹⁵ Majority Forward, Senate Majority PAC, and Red/Gold flooded the airwaves ahead of the midterm election, making health care their top policy objective.

³⁰⁹ Open Secrets: Center for Responsive Politics, “Majority Forward, Outside Spending 2018 Cycle,” Open Secrets: Center for Responsive Politics,

<https://www.opensecrets.org/outsidespending/expenditures.php?cmte=C90016098&cycle=2018>

³¹⁰ Open Secrets: Center for Responsive Politics, “Majority Forward, Targeted Candidates 2018 Cycle,” Open Secrets: Center for Responsive Politics,

<https://www.opensecrets.org/outsidespending/expenditures.php?cmte=C90016098&cycle=2018>

³¹¹ Laurie Roberts, “Why I can't expose 'huge amounts of dark money' from George Soros and Tom Steyer,” Arizona Central, September 24, 2018, <https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2018/09/24/george-soros-and-tom-steyer-flooding-arizonas-elections-dark-money/1414192002/>

³¹² Laurie Roberts, “Why I can't expose 'huge amounts of dark money' from George Soros and Tom Steyer,” Arizona Central, September 24, 2018, <https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2018/09/24/george-soros-and-tom-steyer-flooding-arizonas-elections-dark-money/1414192002/>

³¹³ Ibid, <https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2018/09/24/george-soros-and-tom-steyer-flooding-arizonas-elections-dark-money/1414192002/>

³¹⁴ Open Secrets: Center for Responsive Politics, “Majority Forward, Expenditures 2018 Cycle,” Open Secrets: Center for Responsive Politics,

<https://www.opensecrets.org/outsidespending/expenditures.php?cmte=C90016098&cycle=2018>

³¹⁵ Open Secrets: Center for Responsive Politics, “Red and Gold PAC Profile, Outside Spending 2018,” Open Secrets: Center for Responsive Politics, Outside Spending Summary 2018,

<https://www.opensecrets.org/outsidespending/detail.php?cmte=C00684209&cycle=2018>.

One of the ads Red and Gold ran attacked Martha McSally on her stance towards health care. Martha McSally allowed health care insurance companies to charge adults over the age of 50 five times as much for insurance as they charge adults under the age of 50.³¹⁶ This caused mounting health care bills, making retirement for some unaffordable.³¹⁷ Red and Gold PAC spent approx. \$1.6 million in ad buys targeting McSally's position on health care costs and McSally's push to eliminate Obama Care.³¹⁸ Democrats, through dark money groups, have spent a total of \$3.46 – \$4 million on health care ads.³¹⁹ The one mentioned above is one of many ads blitzing Arizona's airwaves ahead of their midterm election.

The 2018 Midterm Election cycle became the outlier for election spending because not only did liberal groups outspend their conservative counterparts, but dark money groups also outspent the candidate they backed. As noted earlier, dark money groups run negative and deceptive ads and this blurs the line between the messages voters receive. Voters do not know if those messages are from the candidate him or herself, the interest group disclosing their spending, or dark money group not disclosing their spending.

For the 2018 Midterm Elections, negative ads increased exponentially from outside groups. In the 2018 Midterm Elections negative ads accounted for 61% of total ads aired.³²⁰ This broke down to 48% of the ads coded as, "purely negative," and 21% of the ads coded as,

³¹⁶ Joe Ferguson, "Ad Watch: PAC attacks Martha McSally on health care votes," Tuscan.com, August 2, 2018, https://tucson.com/news/local/ad-watch-pac-attacks-martha-mcsally-on-health-care-votes/article_90b08bc6-966e-11e8-ae0c-ab313f2d2671.html

³¹⁷ Joe Ferguson, "Ad Watch: PAC attacks Martha McSally on health care votes," Tuscan.com, August 2, 2018, https://tucson.com/news/local/ad-watch-pac-attacks-martha-mcsally-on-health-care-votes/article_90b08bc6-966e-11e8-ae0c-ab313f2d2671.html

³¹⁸ David Wright, "Health care dominates ads in Florida and Arizona," CNN Politics, August 28, 2018, <https://www.cnn.com/2018/08/28/politics/arizona-florida-senate-races-tv-ads-message-analysis>

³¹⁹ David Wright, "Health care dominates ads in Florida and Arizona," CNN Politics, August 28, 2018, <https://www.cnn.com/2018/08/28/politics/arizona-florida-senate-races-tv-ads-message-analysis>

³²⁰ Wesleyan Media Project, "61% Increase in Volume of Negative Ads," 2018 Election Releases, October 30, 2018, <https://mediaproject.wesleyan.edu/103018/>

“contrast.”³²¹ Wesleyan Media Project reports Democratic dark money groups dominated the 2018 Midterms with 41% of ads coming from groups that do not disclose donors.³²² Negative advertising produced by dark money groups are 9% more persuasive than ads produced by the candidate him or herself.³²³ Unknown interest groups are more persuasive because voters do not connect the ad to the candidate whom they perceive as, “self – serving politician.”³²⁴ Negative ads and deceptive ads work in favor towards the candidate by eliminating the, “backlash effect.”³²⁵ When a candidate’s campaign produce a negative ad, voters connect the negative ad to the candidate, causing the voter to draw negative conclusions of about them.³²⁶ These negative conclusions cause voters to withdraw support for the candidate.³²⁷ Dark money groups, eliminate the link voters make between the candidate and the interest group. When voters cannot link the two, they are less likely to hold elected officials accountable, therefore; it’s in the best interest of the candidate to have a dark money group produce the ads.³²⁸

Negative ads produced by dark money group not only remove the link between the candidate and the voter, but also remove accountability between the candidate and the voter. Candidates are discouraged from sponsoring negative ads out of fear voters would hold the

³²¹ Wesleyan Media Project, “61% Increase in Volume of Negative Ads,” 2018 Election Releases, October 30, 2018, <https://mediaproject.wesleyan.edu/103018/>

³²² Wesleyan Media Project, “61% Increase in Volume of Negative Ads,” 2018 Election Releases, October 30, 2018, <https://mediaproject.wesleyan.edu/103018/>

³²³ Christopher Weber, Johanna Dunaway, and Tyler Johnson, “It’s all in the Name: Source Cue Ambiguity and the Persuasive Appeal of Campaign Ads,” *Political Behavior*, Issue 34, (2011), pg. 572, DOI: <https://doi.org/10.1007/s11109-011-9172-y>

³²⁴ Ibid, pg. 565.

³²⁵ Conor M Dowling and Amber Wichowsky, “Attacks without Consequence? Candidates, Parties, Groups, and the Changing Face of Negative Advertising,” *American Journal of Political Science*, Vol. 59, No. 1 (January 2015), pg. 21 – 22 , <https://www.jstor.org/stable/24363594>

³²⁶ Ibid, pg. 22 – 23

³²⁷ Ibid, pg. 22.

³²⁸ Daniel E. Chand, “Dark Money” and “Dirty Politics”: Are anonymous ads more negative?”, *Business and Politics*, Volume 19, Issue 3, (2017), pg. 456, <https://doi.org/10.1017/bap.2016.13>

candidate accountable to the ad.³²⁹ By having a, “campaign surrogate,” (outside group), run the ad, the voter cannot hold the candidate accountable.³³⁰ Accountability and transparency are removed for voters when outside groups, specifically dark money groups, become responsible for advertising on behalf of the candidate. This has been possible due to relaxed campaign finance laws allowing money to flow from corporations to interest groups to candidates freely, causing transparency and accountability amongst the electorate and candidates to dissolve.

Discussion:

Negative advertising by outside groups has only been effective *because of Citizens United*. *Citizens United* allowed wealthy corporations and interest groups to donate in unlimited sums to elect their preferred candidate into office. One of the ways interest groups and corporations do this is through the use of media advertisements and these advertisements did not have to be positive. The *Citizens United* ruling allowed advertisements to appear on tv thirty days before a primary election and sixty days prior to a general election, in an attempt to influence voter during an election cycle. *Citizens United* altered the campaign finance structure to favor economic elites, and organized business interests, over mass – based interest groups and the average citizens.³³¹ This proved to be a problem because *Citizens United* encouraged the, “growth of shadow part[ies],” and these were in the form of 501c (4) groups.³³² These 501 c (4) groups were called social welfare groups, and did not have to disclose their donors or to whom they were contributing money. Donating behind a veil of secrecy allows dark money groups to

³²⁹ Conor M Dowling and Amber Wichowsky, “Attacks without Consequence? Candidates, Parties, Groups, and the Changing Face of Negative Advertising,” *American Journal of Political Science*, Vol. 59, No. 1 (January 2015), pg. 23, <https://www.jstor.org/stable/24363594>

³³⁰ Ibid, pg. 23.

³³¹ Richard L. Hanson, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections* Chapter 5: Censorship, (New Haven and London, Yale University Press, 2016), pg. 53.

³³² Ibid, pg. 153.

avoid repercussions from voters, while at the same time, controlling the electoral outcomes.³³³

By hiding behind a veil of secrecy dark money groups remove the link and accountability between the candidate, the donor and the electorate. This has permitted not only conservative dark money groups from influencing an election, but also liberal dark money groups. The dark money problem had been brewing for some time, and *Citizens United* proved the issue was just going to (and is) getting worse each election cycle. Conservative dark money groups increased their election spending in 2012 outspending liberal dark money groups. Conservative dark money spending was aimed at Barack Obama's health care plan and planting doubt in the electorate's minds about Barack Obama's second term in office. Obama won the 2012 presidential election; however, this did not stop dark money groups from operating and realizing they could use secrecy to influence close election cycles. In the 2018 Midterm Elections, specifically in Arizona, liberal dark money groups outspent conservative dark money groups. Liberal groups ran negative attack ads against Martha McSally in an attempt to elect Democrat Kyrsten Sinema. Kyrsten Sinema won the Senate seat in Arizona, showing dark money spending is not a partisan issue. Dark money allows both conservatives and liberal groups to evade transparency and donate in unlimited sums to elect their preferred candidate into office. This has only been possible due the Supreme Court striking down campaign finance laws on the basis they violate freedom of speech.

Conclusion:

Campaign finance laws ensures the electoral process of campaigning, running for office, and voting balances the interests of the candidate, the donor, and the electorate. Campaign finance laws restricting contributions, spending, and political advertising keep money and votes

³³³ Stan Oklobdzija, "Public Positions, Private Giving: Dark Money and Political Donors in the Digital Age," *Research and Politics*, Volume 6, Issue 1, January – March 2019, pg. 6. <https://doi.org/10.1177/2053168019832475>.

separate. Money remains in the economic sphere, votes remain in the political sphere and campaign finance laws discourage incumbents and challengers from catering to those with wealth and influence, over those who do not. Campaign finance reform becomes a balancing act between the equality of citizens on one side, and the inequality of resources (money) on the other. Campaign finance laws correct the wealth disparities in political participation caused by large sums of money entering the political system. Campaign finance laws meant to restrict the amount of money an individual can contribute by setting contribution limits, limits on using candidate personal funds, and spending limits were ruled unconstitutional in the Supreme Court case *Buckley V. Valeo*. This court case had unintended negative consequences such as, allowing the incumbent to accumulate money quickly, PAC contributions rose, donations shifted to soft money, donors influenced a specific lawmaker with the intent he or she will receive something in return, and the emergence of, “secret gifts,” what is now called dark money. These theoretical frameworks suggest, curtailed campaign finance laws permitted dark money groups to reduce transparency of political information, thereby causing negative and deceptive political advertisements to increase during an election cycle.

Dark money entering the electoral process resulted from the Supreme Court in the conical case *Citizens United V. Federal Election Commission*. *Citizens United V. Federal Election Commission* ruled corporations, interest groups and unions could use money from their general treasury to directly elect their preferred candidate into office. Corporations, unions and interest groups could air media advertisements that directly advocate for a candidate of their choice and air these advertisements up and till Election Day. The Supreme Court ruled a corporation, union, and interest group has a right to use money as a form of political speech, effectively ruling money is a form of free speech. Furthermore, the Supreme Court gave corporations, unions and

interest groups the same freedom of speech protections as individuals under the Constitution. This opened the floodgate for unlimited money to enter the electoral system.

One of the ways money entered the electoral system was through 501 c (4) groups, social welfare organizations. In an effort to skirt tax laws, these organizations use PAC's and Super PACs to make political expenditures. Furthermore, these 501 c (4)'s do not have to disclose their donors or to whom they are donating to. Hence, the term dark money groups. These dark money groups are active in election cycles, specifically the 2012 Presidential Election and 2018 Midterm Elections. In the 2012 Presidential Election conservative dark money groups outspent liberal dark money groups, in an attempt to block Barack Obama's health care plan. The dark money group operating during the 2012 Presidential Election was, "Americans for Prosperity." Americans for Prosperity blitzed the airwaves with negative and deceptive ads showing how a universal health care system would harm Americans receiving care, comparing the U.S health care system to Europe's. Although Obama won in 2012, dark money groups were just beginning to pour money into election cycles.

The 2018 Midterm Election marked the highest amount of dark money group spending since *Citizens United* with liberal groups outspending conservative groups. The liberal group operating in the 2018 Midterm Election in Arizona was Majority Forward. Majority Forward sought to unseat Republican Senator in Arizona, Martha McSally and elect Democrat Kyrsten Sinema. Majority Forward waged negative ad campaigns against McSally's push to eliminate Obama Care and hike insurance rates for older Americans. Majority Forward's candidate Kyrsten Sinema won the 2018 election in Arizona. However, it was not without negative advertising and funneling money between PACs and Super PACs to elect their preferred candidate. Dark money is a problem on both sides of the aisle; Democrats and Republicans.

Citizens United allowed dark money groups to operate, reducing transparency of political information during election cycles.

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Conclusion

The first chapter of the thesis concluded, interest groups who have money (collecting membership dues or donations), are well established, occupy highly politicalized industries, i.e., gun rights, abortion, and gay marriage and identify as partisan will prefer an electoral donation strategy as opposed to an access-oriented donation strategy. This chapter uses the National Rifle Association to demonstrate an interest group with money, that is well established, occupies a highly politicalized industry, and identifies as partisan must back a candidate that aligns ideologically with them to influence the electoral process. Likewise, these interest groups tend to have access to the legislative process, so their goal is to simply win seats.

Moreover, the second chapter uses *Citizens United* to conclude, as campaign spending on issue advertisements increases, the quantity of issues discussed decreases, causing a polarized electorate. The second chapter uses two election cycles to demonstrate polarization increased from 2008 to 2016 due to the sheer amount of money entering the electoral system as a result of *Citizens United*. Moreover, the 2008 Presidential Election occurring before *Citizens United* to demonstrate polarization within the electorate was not due to media advertisements, but due to the changing electorate. In 2008, the electorate was younger, the electorate was racially diverse, supported progressive issues such as, government health care, pulling troops out of Iraq, and pulling the economy out of the recession. Barack Obama not only connected with this younger

and more racially diverse electorate, but he championed the progressive issues they supported. Barack Obama chose to use private campaign money (contributions from individuals, labor unions and PACs) to fund his campaign. He used those private campaign contributions to fund his own campaign advertisements, giving him the control of the message and content of the ad. Hence, interest groups did not have to produce ads on his behalf. Likewise, interest groups focused their attention on Democratic Congressional races, instead of Barack Obama's campaign.

This was not the case for the 2016 Presidential Election where interest groups in the form of political action committee (PACs) poured large sums of money into media advertisements to elect Donald Trump. The PAC supporting Donald Trump, the Great America PAC, produced an ad that compared and contrasted Hillary Clinton's handling of the Benghazi attack with Donald Trump's support for troops serving overseas. The ad showed Hillary Clinton's handling of the attack as a, "disgrace," and showed how Donald Trump is, "accountable and truthful," to the American people. This ad replayed multiple times prior to and on Election Day, influencing voter opinions.

Not only did PACs run ads, but Donald Trump's campaign ran an ad comparing and contrasting Hillary Clinton's immigration policies to his own immigration policies. This ad showed Hillary Clinton's immigration policies as, "dangerous, unsafe, amnesty for criminals," but Donald Trump's immigration policies as, "safe, criminals kept out, the border secure." This ad replayed multiple, if not hundreds of times, prior to and on Election Day. Combined these two ads reinforced the opinions of Hillary Clinton and Donald Trump; either voters hated Hillary Clinton and loved Donald Trump, or they hated Donald Trump and loved Hillary Clinton. Hence, the middle ground of voters disappeared, leaving two extreme ends of the political

spectrum. *Citizens United* changed the landscape of political advertising, allowing interest groups to pour money into advertisements that explicitly advocated for the defeat of a candidate, these advertisements repeated multiple times, thus pushing voters to extreme ends of the political spectrum.

These advertisements polarized the electorate not only because of the timing of the ads, but the sheer amount of money from undisclosed donors pouring into the ads during an election cycle. The third chapter uses the *Citizens United* decision to conclude, curtailed campaign finance laws permitted dark money groups to reduce transparency of political information, causing negative and deceptive political advertisements to increase during an election cycle. The third chapter uses two election cycles: the 2012 Presidential Election and 2018 Midterm Election in Arizona to show the impact dark money has on issue advertisements and the electorate.

The 2012 Presidential Election demonstrated conservative dark money groups outspent liberal dark money groups, in an attempt to block Barack Obama's health care plan, the Affordable Health Care Act. The dark money group operating during the 2012 Presidential Election was, "Americans for Prosperity." Americans for Prosperity ran an ad comparing breast cancer survival rates in Europe under a government run health care system, and breast cancer survival rates in the United States under private insurance. The ad shows the survival rate decreasing in Europe due to their government run health care system. However, the ad shows the survival rate increasing in the United States due to private insurance companies. The ad depicts a woman who claims if she were in Europe and receiving care, she would have died. The ad misled voters because the actual survival rates in both countries remained steady. Americans for Prosperity donated to a front group who then produced issue ads on behalf of Americans for

Prosperity. The voter watching the ad, does not know who funded the ad, or how much money was spent on it.

Although Obama won the 2012 Presidential Election, dark money groups were just beginning to ramp up their operations for the 2018 Midterm Election in Arizona. The 2018 Midterm Election saw the highest amount of dark money spending since *Citizens United*. Furthermore, the 2018 Midterm Election saw liberal dark money groups outspent conservative dark money groups. The dark money group operating during the 2018 Midterm Election in Arizona was “Majority Forward.” Majority Forward and its affiliate PAC, Senate Majority PAC, blitzed the airwaves with issue ads critiquing Republican Senator Martha McSally. The ads critiqued McSally’s push to end the Affordable Health Care Act and hike insurance rates for those over the age of 50. Majority Forward ran these issue ads in attempt to elect the Democratic Senator Kyrsten Sinema.

Majority Forward succeed in electing Kyrsten Sinema by spending millions of dollars on issue ads. Since Majority Forward is a dark money group, they can run issue ads without disclosing who funded the ad or disclose to the FEC how much money was spent on the ad. Dark money groups remove the link between the electorate and the donor by decreasing transparency of political information. Dark money groups have only increased their spending since *Citizens United*. Likewise, *Citizens United* permitted corporations and interest groups to donate in unlimited sums to elect their preferred candidate by running advertisements. These ads skewed negative and appeared on televisions on Election Day influencing voter opinions at the ballot box.

The impact of *Citizens United* not only affected electoral outcomes during the 2012, 2016, and 2018 elections, but also affected transparency of political information transmitted to

voters in the form of media advertisements. Money in the electoral system is a double - edged sword; it communicates the candidate's message across the airwaves to voters. However, money left unregulated harms the exact process the United States Constitution and the United States Supreme Court protects, the right to vote. With *Citizens United*, the Supreme Court elevated the Constitutional rights of the wealthy few (the minority), and drowned out the voices of the majority (We the People of the United States), by glancing the other way as money pours in from PACs, Super PACs, and dark money groups. By the same token, curtailed campaign finance laws cause interest groups to prefer an electoral donation strategy as opposed to an access – oriented strategy, cause an increase in spending on issue ads polarizing the electorate, and cause dark money groups to decrease transparency of political information during an election cycle.

Based on the findings of these three chapters, the lack of campaign finance laws is here to stay. Combined these chapters show the consequences of relaxed campaign finance laws, not only for the electorate, but on the quantity of issues discussed and the transmission of political information during an election cycle. Likewise, campaign finance laws regarding spending, raising, and donating were struck down by the Supreme Court on the basis they violated the First Amendment. The Supreme Court ruled time and time again, First Amendment protections were more important than a non - affluent voter's right to participate in the electoral process. Furthermore, free speech becomes the basis for striking down important campaign finance laws meant to protect the electorate's voice in the political process. These important provisions were struck down in *Buckley V. Valeo* and the final straw being, *Citizens United V. Federal Election Commission*, which opened the flood gates for money to enter the electoral system. The Supreme Court is ideally supposed to protect the rights of individuals by upholding the Constitution. However, in this case the Supreme Court sided with the wealthy corporate interests, above the

electorate's interest. The Supreme Court established campaign finance laws as a violation to First Amendment rights, setting the precedent for future reforms to fail. Hence, once the genie is out of the bottle, it's hard to put it back in and reverse what has been established.

Based on the findings the following recommendations include, tighter restrictions on campaign finance spending, restrictions on the use of soft money, and more transparency of political information. Some of those reforms include; public funding of campaigns, a voucher program, and the current bill moving through the Senate, H.R 1. Public funding of campaigns requires candidates to accept spending limits, in exchange, the candidate receives a subsidy from the U.S Treasury.³³⁴ These limits do not harm the free speech rights of the candidate, and this reform is less drastic than direct regulation (spending and raising limits).³³⁵ Public funding incentivizes candidates to cater to non – wealthy small donors for support.³³⁶ Moreover, small donors are representative of the majority of the electorate.³³⁷ When small donors finance elections, candidates can raise and spend what they need to compete with super PACs.³³⁸ Under the public financing system, there are no limits on political spending, so it stands up to the current Supreme Court requirements for financing elections.³³⁹ The public funding system is a

³³⁴ Vincent A. Blasi, "Free Speech and the Widening Gyre of Fund-Raising: Why Campaign Spending Limits May Not Violate the First Amendment after All Symposium on Campaign Finance Reform," *Columbia Law School*, Volume 94, 1281, (1994), pg. 1317, https://scholarship.law.columbia.edu/faculty_scholarship/10

³³⁵ Ibid, pg. 1317 – 1318

³³⁶ Ian Vandewalker, "The Benefits of Public Financing and the Myth of Polarized Small Donors," Brennen Center for Justice, Expert Brief, February 12, 2020, <https://www.brennancenter.org/our-work/research-reports/benefits-public-financing-and-myth-polarized-small-donors>

³³⁷ Ian Vandewalker, "The Benefits of Public Financing and the Myth of Polarized Small Donors," Brennen Center for Justice, Expert Brief, February 12, 2020, <https://www.brennancenter.org/our-work/research-reports/benefits-public-financing-and-myth-polarized-small-donors>

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less drastic measure to regulate money in the electoral system because the, “quantity of speech lost from candidates is no different than if those same limits were imposed directly.”³⁴⁰ Hence, the public funding of campaigns does not harm limits on speech any more than limits that already exist on political speech.

Although public financing has its benefits, there are drawbacks. Candidates spend more time on fundraising, not less. Even if public financing of campaigns remains high, there is a competitive advantage for candidates to fundraise independently from receiving public funds (private contributions).³⁴¹ The myth of public funding is it replaces spending limits. The public funding system does not replace spending limits.³⁴² The public financing of campaigns is in addition to spending limits.³⁴³ With that being said, candidates can refuse to accept the public funds. Public financing of campaigns causes a candidate facing well – funded opponents to decline the spending limits attached to the public financing system, thus opt in to private donations.³⁴⁴ Hence, Barack Obama, opted in to private donations instead of the public financing system. Lastly, the public financing system is not likely to materialize due to the explosion of PACs and their ability to support a candidate quickly through soft money.³⁴⁵

Similarly, another reform gaining traction is the voucher program. Voting age Americans are given a voucher usable for contributions to candidates, parties or candidate committees. The voucher program determines which candidate qualifies for public funding, and how much does

³⁴⁰ Vincent A. Blasi, “Free Speech and the Widening Gyre of Fund-Raising: Why Campaign Spending Limits May Not Violate the First Amendment after All Symposium on Campaign Finance Reform,” *Columbia Law School*, Volume 94, 1281, (1994), pg. 1318, https://scholarship.law.columbia.edu/faculty_scholarship/10

³⁴¹ Ibid, pg. 1318 – 1319.

³⁴² Ibid, pg. 1319.

³⁴³ Ibid, pg. 1319.

³⁴⁴ Ibid, pg. 1318.

³⁴⁵ Ibid, pg. 1320.

each candidate receive.³⁴⁶ The voucher program gives large sums of money to registered voters and regular voters who participated in the primary and general election. Voters can then donate this money to a candidate, party or candidate committee.³⁴⁷ The voucher program encourages voters to participate in civic life.³⁴⁸ The voucher program solves the question of what candidate gets money and how much by asking the voters to make those decisions. Instead of the government setting the funding thresholds, the voters individually decide which candidate receives their voucher.³⁴⁹ Likewise, the voter decides how much public money each candidate receives. The voucher program gives Americans an equal say in funding decisions and increases political participation of the electorate.

The voucher system also has its set of drawbacks, making it hard to pass through Congress. The first drawback is uncertainty. Candidates depend on the vouchers given to them by the voters, but what if voter turnout is low? If voter turnout is low, then the dollar amount of vouchers the candidate receives is low.³⁵⁰ This tilts the playing field to favor candidates coming into the race with money, mainly the incumbent. This excludes challengers who do not want to enter the race given the uncertain distribution of the vouchers on Election Day.³⁵¹

The second drawback is vouchers reward early popularity, hence the incumbent. Unknown candidates have a harder time entering the race because incumbents have the

³⁴⁶ Richard Briffault, "Reforming Campaign Finance Reform: A Review of Voting with Dollars," *California Law Review*, Volume 91, Number 3, (May 2003), pg. 670, <https://www.jstor.org/stable/3481372>

³⁴⁷ Vincent A. Blasi, "Free Speech and the Widening Gyre of Fund-Raising: Why Campaign Spending Limits May Not Violate the First Amendment after All Symposium on Campaign Finance Reform," *Columbia Law School*, Volume 94, 1281, (1994), pg. 1319, https://scholarship.law.columbia.edu/faculty_scholarship/10

³⁴⁸ Ibid, pg. 1319.

³⁴⁹ Richard Briffault, "Reforming Campaign Finance Reform: A Review of Voting with Dollars," *California Law Review*, Volume 91, Number 3, (May 2003), pg. 672 – 673 , <https://www.jstor.org/stable/3481372>

³⁵⁰ Ibid, pg. 674.

³⁵¹ Ibid, pg. 674.

advantage of name recognition and money over the challenger.³⁵² Moreover, voters have an incentive to give their voucher to the incumbent, not the challenger.

Similarly, the final drawback is vouchers fail to promote candidate equality. Vouchers allow the incumbent to stay ahead because voters will give their vouchers to the well-known candidate.³⁵³ Furthermore, there is no guarantee candidates will receive equal funding from the vouchers. Vouchers also require candidates to focus on fundraising by pitching for money and votes from the electorate at the same time.³⁵⁴ The problem then becomes it's a scramble for resources and votes similar to what is currently in place.

Bringing campaign finance reform to the current day, the House of Representatives and the Senate received a bill entitled, "For the People Act," (H.R 1). For reference, For the People Act of 2021 guarantees disclosure of contributions by requiring organizations involved in political activity (501 c (4)'s dark money groups) to disclose their donors. H.R 1 also creates a dollar-for-dollar matching system for small contributions given to political candidates.³⁵⁵ This matching system would implement a 6 to 1 matching of small dollar contributions.³⁵⁶ H.R 1 would also prohibit super PAC and candidate coordination, create new rules for political ads appearing online, and end dark money from entering the political system.³⁵⁷ H.R 1 also puts Congress back in the driver seat; Congress regains the authority to regulate money in politics,

³⁵² Ibid, pg. 674.

³⁵³ Ibid, pg. 674 – 675.

³⁵⁴ Ibid, pg. 674 – 675.

³⁵⁵ Karl Evers-Hillstrom, "House Democrats pass campaign finance overhaul, Senate GOP to block bill," Open Secrets: Center for Responsive Politics, March 4, 2021, <https://www.opensecrets.org/news/2021/03/for-the-people-act-gop-block/>

³⁵⁶ Karl Evers-Hillstrom, "House Democrats pass campaign finance overhaul, Senate GOP to block bill," Open Secrets: Center for Responsive Politics, March 4, 2021, <https://www.opensecrets.org/news/2021/03/for-the-people-act-gop-block/>

³⁵⁷ Karl Evers-Hillstrom, "House Democrats pass campaign finance overhaul, Senate GOP to block bill," Open Secrets: Center for Responsive Politics, March 4, 2021, <https://www.opensecrets.org/news/2021/03/for-the-people-act-gop-block/>

reinstating campaign finance laws repealed in *Citizens United*. H.R 1 strengthens oversight of campaign finance laws, specifically on super PACs and reorganizes the Federal Election Commission to enhance enforcement mechanisms for campaign finance violations.³⁵⁸ Put simply, H.R 1 raises the voice of the public over the voices of the wealthy/ powerful.³⁵⁹ H.R 1's intention was to prevent large sums of money from entering the electoral system and improving transparency. H.R 1 passed the House of Representatives, but it did not pass the Senate.

These chapters explore a piece of the campaign finance reform puzzle; interest groups, issue advertisements, and dark money, but there are other areas of campaign finance reform that have yet to be explored. These areas include: do campaign contributions negatively or positively influence Congressional races in heavily contested seats? Does a matching program (matching dollar for dollar) donations decrease the corrupt behavior of politicians and interest groups? Does a voucher system work to equalize the playing field between the electorate, the donor and the candidate? Has the impact of a voucher program been studied and implemented in other countries or other smaller scale United States cities/ counties?

Similarly, these thesis chapters raise questions about voter turnout and participation. Do these issue advertisements negatively or positively affect voter turnout or participation prior to an election? Do voters with higher or lower education attainment believe negative/ deceptive issue ads or do they question the ad and come to their own conclusions? What is the effect of money and issue ads (negative and deceptive) on voter apathy? Given H.R 1 did not pass in the

³⁵⁸ Karl Evers-Hillstrom, "House Democrats pass campaign finance overhaul, Senate GOP to block bill," Open Secrets: Center for Responsive Politics, March 4, 2021, <https://www.opensecrets.org/news/2021/03/for-the-people-act-gop-block/>

³⁵⁹ Karl Evers-Hillstrom, "House Democrats pass campaign finance overhaul, Senate GOP to block bill," Open Secrets: Center for Responsive Politics, March 4, 2021, <https://www.opensecrets.org/news/2021/03/for-the-people-act-gop-block/>

Senate, is it possible legislatively to reverse the effects of *Citizens United*? And finally, does money increase voter efficacy in the political process or decrease voter efficacy in the political process? Raising these normative questions will encourage the reader to not only explore other areas of campaign finance reform, but give the reader a comprehensive understanding of campaign finance reforms in the United States and how these reforms have been scaled back to favor the wealthy corporations over the non – affluent voter’s right to participate in the electoral process.

Collectively this thesis explores three aspects of campaign finance reform: interest group donation strategies, campaign contributions and their effect on issue advertisements, and the impact of dark money on transparency of political information. Exploring these three aspects, and asking normative questions will give the reader a comprehensive understanding of campaign finance reforms in the United States and encourage further research and reform in the area of campaign finance reform.

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Academic Training, Research and Experience:

- Master's Thesis on Campaign Finance Reform – Interest group donation strategies, electorate polarization, and dark money groups/ dark money spending
- Previous scholarly work on immigration reform, homelessness, American election law, and American political thought, lobbying and advocacy at the federal level and extensive knowledge of local government politics
- Researcher at UCLA Special Collections Library – independent research in American History and American Government
- Legal research for an attorney suing Purdue Pharmaceuticals: Legal research on policy issues (both federal and state) surrounding opioids, pain management, clinical trials, and financial records from Purdue Pharmaceuticals through UCLA Biomedical Library
- Legal research for an attorney examining the Mayor Tom Bradley Administration Papers at UCLA on an Underground Storage Tank spill of hazardous materials in the City of Los Angeles
- Researched and analyzed detailed geographical reports/ charts on student socioeconomic status, race, age, and school location within the Los Angeles Unified School District Juvenile Delinquency Collection at UCLA Special Collections Library